

By: Representatives McGee, Lancaster, Foster To: Public Utilities

HOUSE BILL NO. 1350
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 77-3-707, MISSISSIPPI CODE OF 1972,
2 TO PROHIBIT TELEPHONE SOLICITORS FROM MAKING ANY TELEPHONE
3 SOLICITATION TO ANY PERSON IN THE STATE OF MISSISSIPPI REGARDING
4 ANY MEDICARE ADVANTAGE PLAN; TO PROVIDE THAT IF A PERSON HAS FIRST
5 INITIATED A CALL WITH AN ENTITY REGARDING A MEDICARE ADVANTAGE
6 PLAN, A TELEPHONE SOLICITOR IS NOT PROHIBITED FROM THEN MAKING A
7 TELEPHONE SOLICITATION REGARDING A MEDICARE ADVANTAGE PLAN; TO
8 AMEND SECTIONS 77-3-709 AND 77-3-723, MISSISSIPPI CODE OF 1972,
9 WHICH RELATE TO THE MISSISSIPPI TELEPHONE SOLICITATION ACT, TO
10 CONFORM TO THE PRECEDING PROVISIONS; TO BRING FORWARD SECTIONS
11 77-3-603 AND 79-11-524, MISSISSIPPI CODE OF 1972, WHICH RELATE TO
12 UNSOLICITED RESIDENTIAL TELEPHONIC SALES CALLS AND REGULATION OF
13 CHARITABLE SOLICITATIONS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
14 AMEND SECTION 77-3-711, MISSISSIPPI CODE OF 1972, TO CONFORM TO
15 THE PRECEDING PROVISIONS; TO EXCLUDE ISSUERS OF MEDICARE
16 SUPPLEMENTS FROM THE EXEMPTION FOR CALLS RELATING TO INSURANCE
17 FROM THE REQUIREMENTS OF THE TELEPHONE SOLICITATION ACT; TO AMEND
18 SECTION 83-9-110, MISSISSIPPI CODE OF 1972, TO PROHIBIT ISSUERS OF
19 MEDICARE SUPPLEMENTS FROM MAKING TELEPHONE SOLICITATIONS; AND FOR
20 RELATED PURPOSES.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

22 **SECTION 1.** Section 77-3-707, Mississippi Code of 1972, is
23 amended as follows:

24 77-3-707. (1) Except as otherwise provided * * * under
25 Sections 77-3-709 * * *, 77-3-711, or subsection (4) of this
26 section, a telephone solicitor may not make or cause to be made
27 any telephone solicitation to any consumer in this state unless



28 the telephone solicitor has obtained the "no-calls" database
29 directly from the Federal Trade Commission or other federal
30 agency.

31 (2) Except as otherwise provided pursuant to Section
32 77-3-709 or 77-3-711, a telephone solicitor may not make or cause
33 to be made any telephone solicitation to any consumer in this
34 state who has given notice to the federal government, or given
35 notice to the Public Service Commission prior to July 1, 2023, of
36 his or her objection to receiving telephone solicitations.

37 (3) Each local exchange company and each competing local
38 exchange carrier shall provide written notification on a
39 semiannual basis to each of its consumers of the opportunity to
40 provide notification to the Federal Trade Commission, or other
41 entity as designed by federal law, that the consumer objects to
42 receiving telephone solicitations. The notification must be
43 disseminated at the option of the carrier, by television, radio or
44 newspaper advertisements, written correspondence, bill inserts or
45 messages, a publication in the consumer information pages of the
46 local telephone directory, or any other method not expressly
47 prohibited by the Attorney General.

48 (4) A telephone solicitor shall not make, or cause to be
49 made, any telephone solicitation to any person in this state
50 regarding any Medicare Advantage Plan. However, if a person has
51 first initiated a call with a company or an entity regarding a
52 Medicare Advantage Plan, a telephone solicitor is not prohibited



53 from then making, or causing to be made, a telephone solicitation
54 regarding a Medicare Advantage Plan. This subsection (4) of this
55 section shall not apply to the extent it is preempted under 42 USC
56 Section 1395w-26(b)(3).

57 **SECTION 2.** Section 77-3-709, Mississippi Code of 1972, is
58 amended as follows:

59 77-3-709. Except as otherwise provided in Section 77-3-707
60 (4), the Attorney General, in his or her discretion, may allow
61 telephone solicitors to make telephone solicitations without
62 requiring them to purchase the "no-calls" database, and regardless
63 of whether a telephone solicitation may be made to a consumer who
64 has given notice of his objection to receiving such solicitations,
65 provided that it adopts a written policy incorporating the
66 following criteria:

67 (a) The telephone solicitor must demonstrate to the
68 Attorney General that its proposed telephone solicitation is
69 reasonably related to an established business relationship as
70 defined in Section 77-3-705(h), or is being made in response to an
71 invitation or notice from a consumer which clearly signifies that
72 he is open to a contact being initiated;

73 (b) The telephone solicitation is to be made by a
74 person or entity for the purpose of soliciting a contribution or
75 donation to a bona fide nonprofit corporation, regardless of
76 whether consumer goods or services will be provided to the
77 consumer in return for the contribution or donation; or



78 (c) The consumer will not be telephoned for a telephone
79 solicitation as defined in Section 77-3-705(d), but he will be
80 telephoned for a bona fide religious or charitable purpose,
81 including an invitation to attend an event or a request for a
82 contribution or donation.

83 In all cases, the telephone solicitor must demonstrate that
84 it will not use an automated dialing system or a method that will
85 block or otherwise circumvent the consumer's use of a caller
86 identification service.

87 In making its determination of whether to allow a telephone
88 solicitation to be made under the policy which will include the
89 limitations set forth in this section, the Attorney General shall
90 exercise due care in investigating previous conduct of the
91 telephone solicitor seeking such authority. The Attorney General
92 may deny any telephone solicitor the privilege of making telephone
93 solicitations under this section, notwithstanding that any of the
94 criteria set forth in this section have been met.

95 **SECTION 3.** Section 77-3-711, Mississippi Code of 1972, is
96 amended as follows:

97 77-3-711. Except as otherwise provided in Section
98 77-3-707(4), the provisions of this article shall not apply to:

99 (a) A person soliciting:

100 (i) Who does not make the major sales presentation
101 during the telephone solicitation;



102 (ii) Without the intent to complete or obtain
103 provisional acceptance of a sale, a charitable contribution, or
104 the payment of some other item of value, pecuniary or otherwise,
105 during the telephone solicitation; or

106 (iii) Without the intent to complete, and who does
107 not complete, the sales presentation during the telephone
108 solicitation, but who completes the sales presentation at a later
109 face-to-face meeting between the person soliciting and the
110 prospective purchaser or consumer.

111 (b) A person who is a licensee under Chapter 35, Title
112 73, Mississippi Code of 1972, who is a resident of the State of
113 Mississippi, and whose telephone solicitation is for the sole
114 purpose of selling, exchanging, purchasing, renting, listing for
115 sale or rent or leasing real estate in connection with his real
116 estate license and not in conjunction with any other offer.

117 (c) A motor vehicle dealer as that term is defined in
118 Section 63-17-55, who is a resident of the State of Mississippi
119 and who maintains a current motor vehicle dealer's license issued
120 by the Mississippi Motor Vehicle Commission, whose telephone
121 solicitation is for the sole purpose of selling, offering to sell,
122 soliciting or advertising the sale of motor vehicles in connection
123 with his motor vehicle dealer's license and not in conjunction
124 with any other offer.

125 (d) An agent, as that term is defined in Section
126 83-17-1, whose telephone solicitation is for the sole purpose of



127 soliciting, consulting, advising, or adjusting in the business of
128 insurance; however, this exemption is not applicable to a person
129 calling on behalf of any issuer, as that term is defined in
130 Section 83-9-101, whose telephone solicitation is for the sole
131 purpose of making a sales presentation or otherwise soliciting the
132 purchase of a Medicare supplement policy or certificate. This
133 paragraph (d) shall not apply to the extent it is preempted under
134 42 USC Section 1395w-26(b) (3).

135 (e) A broker-dealer, agent, or investment advisor
136 registered under Chapter 71, Title 75, Mississippi Code of 1972,
137 whose telephone solicitation is for the sole purpose of effecting
138 or attempting to effect the purchase or sale of securities or has
139 the purpose of providing or seeking to provide investment or
140 financial advice.

141 (f) A person calling on behalf of a charitable
142 organization which is registered under Chapter 11, Title 79,
143 Mississippi Code of 1972, whose telephone solicitation is for the
144 sole purpose of soliciting for the charitable organization and who
145 receives no compensation for his activities on behalf of the
146 organization.

147 (g) A person calling on behalf of a newspaper of
148 general circulation, whose telephone solicitation is for the sole
149 purpose of soliciting a subscription to the newspaper from, or
150 soliciting the purchase of advertising by, the consumer.



151 (h) A person calling on behalf of any supervised
152 financial institution or parent, subsidiary or affiliate thereof.
153 As used in this section, "supervised financial institution" means
154 any commercial bank, trust company, savings and loan association,
155 mutual savings bank, credit union, industrial loan company, small
156 loan company, consumer finance lender, commercial finance lender
157 or insurer, provided that the institution has a physical office
158 located in the State of Mississippi and is subject to supervision
159 by an official or agency of the State of Mississippi or of the
160 United States.

161 (i) A person calling on behalf of a funeral
162 establishment licensed under Section 73-11-41, cemetery or
163 monument dealer, if the sole purpose of the telephone solicitation
164 relates to services provided by the funeral or death related
165 establishments in the course of its ordinary business.

166 (j) Any telephone solicitor who solicits a consumer
167 with whom he has an established business relationship.

168 **SECTION 4.** Section 77-3-723, Mississippi Code of 1972, is
169 amended as follows:

170 77-3-723. (1) Any person or entity who makes an authorized
171 telephone solicitation to a consumer in this state shall announce
172 clearly, at the beginning of each call, his or her name, the
173 company he or she represents and the purpose of the call. Such
174 calls may only be made between the hours of 8:00 a.m. and 8:00
175 p.m. Central Standard Time. No telephone solicitations may be



176 made on a Sunday. For purposes of this provision, an "authorized
177 telephone solicitation" means a solicitation that is made: (a) to
178 a consumer who is not listed on the most current "no-calls"
179 database; (b) by a telephone solicitor who has been authorized to
180 make such solicitations under the provisions of Section 77-3-709;
181 (c) by a telephone solicitor that is not prohibited from making,
182 or causing to be made, such solicitations under Section 77-3-707
183 (4); or (* * *d) by a telephone solicitor who is exempt from this
184 article under the provisions of Section 77-3-711.

185 (2) A person or entity who makes a telephone solicitation to
186 a consumer in this state may not utilize knowingly any method that
187 blocks or otherwise circumvents the consumer's use of a caller
188 identification service, nor may the person or entity use an
189 automated dialing system or any like system that uses a recorded
190 voice message to communicate with the consumer unless the person
191 or entity has an established business relationship with the
192 consumer and uses the recorded voice message to inform the
193 consumer about a new product or service.

194 **SECTION 5.** Section 77-3-603, Mississippi Code of 1972, is
195 brought forward as follows:

196 77-3-603. Any telephone solicitor who makes an unsolicited
197 telephonic sales call to a residential telephone number shall:

198 (a) Make calls between the hours of 8:00 a.m. and 9:00
199 p.m., Central Standard Time, Monday through Friday, and between



200 the hours of 8:00 a.m. and 9:00 p.m. on Saturdays (no calls shall
201 be made on Sundays);

202 (b) Identify himself or herself by his or her true
203 first and last names and the business on whose behalf he or she is
204 soliciting immediately upon making contact by telephone with the
205 person who is the object of the telephone solicitation; and

206 (c) Discontinue the call immediately if at any time
207 during the conversation the person being solicited expresses
208 disinterest in continuing the call or sales presentation.

209 **SECTION 6.** Section 79-11-524, Mississippi Code of 1972, is
210 brought forward as follows:

211 79-11-524. Any fund-raising counsel, professional
212 fund-raiser, professional solicitor or employee of any of these
213 who makes a telephone solicitation subject to the provisions of
214 this chapter to a residential telephone number shall make calls
215 only between the hours of 9:00 a.m. and 9:00 p.m., Monday through
216 Saturday. No calls shall be made on Sundays.

217 **SECTION 7.** Section 83-9-110, Mississippi Code of 1972, is
218 amended as follows:

219 83-9-110. (1) Every issuer of Medicare supplement insurance
220 policies or certificates in this state shall provide a copy of any
221 Medicare supplement advertisement intended for use in this state,
222 whether through written, radio or television medium, to the
223 commissioner for review and approval.



224 (2) An issuer may not make or cause to be made a telephone
225 solicitation, as that term is defined in Section 77-3-705, for the
226 purpose of advertising the sale or soliciting the purchase of a
227 Medicare supplement policy or certificate. This subsection (2)
228 shall not apply to the extent it is preempted under 42 USC Section
229 1395w-26(b) (3).

230 **SECTION 8.** This act shall take effect and be in force from
231 and after July 1, 2024.

