

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

HOUSE BILL NO. 1350

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, 77-3-711 AND 77-3-723, MISSISSIPPI CODE
9 OF 1972, WHICH RELATE TO THE MISSISSIPPI TELEPHONE SOLICITATION
10 ACT, TO CONFORM TO THE PRECEDING PROVISIONS; TO BRING FORWARD
11 SECTIONS 77-3-603 AND 79-11-524, MISSISSIPPI CODE OF 1972, WHICH
12 RELATE TO UNSOLICITED RESIDENTIAL TELEPHONIC SALES CALLS AND
13 REGULATION OF CHARITABLE SOLICITATIONS, FOR PURPOSES OF POSSIBLE
14 AMENDMENT; AND FOR RELATED PURPOSES.

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

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

18 77-3-707. (1) Except as otherwise provided * * * under
19 Sections 77-3-709 * * *, 77-3-711, or subsection (4) of this
20 section, a telephone solicitor may not make or cause to be made
21 any telephone solicitation to any consumer in this state unless
22 the telephone solicitor has obtained the "no-calls" database
23 directly from the Federal Trade Commission or other federal
24 agency.



25 (2) Except as otherwise provided pursuant to Section
26 77-3-709 or 77-3-711, a telephone solicitor may not make or cause
27 to be made any telephone solicitation to any consumer in this
28 state who has given notice to the federal government, or given
29 notice to the Public Service Commission prior to July 1, 2023, of
30 his or her objection to receiving telephone solicitations.

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

42 (4) A telephone solicitor shall not make, or cause to be
43 made, any telephone solicitation to any person in this state
44 regarding any Medicare Advantage Plan. However, if a person has
45 first initiated a call with a company or an entity regarding a
46 Medicare Advantage Plan, a telephone solicitor is not prohibited
47 from then making, or causing to be made, a telephone solicitation
48 regarding a Medicare Advantage Plan.



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

51 77-3-709. Except as otherwise provided in Section 77-3-707
52 (4), the Attorney General, in his or her discretion, may allow
53 telephone solicitors to make telephone solicitations without
54 requiring them to purchase the "no-calls" database, and regardless
55 of whether a telephone solicitation may be made to a consumer who
56 has given notice of his objection to receiving such solicitations,
57 provided that it adopts a written policy incorporating the
58 following criteria:

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

65 (b) The telephone solicitation is to be made by a
66 person or entity for the purpose of soliciting a contribution or
67 donation to a bona fide nonprofit corporation, regardless of
68 whether consumer goods or services will be provided to the
69 consumer in return for the contribution or donation; or

70 (c) The consumer will not be telephoned for a telephone
71 solicitation as defined in Section 77-3-705(d), but he will be
72 telephoned for a bona fide religious or charitable purpose,



73 including an invitation to attend an event or a request for a
74 contribution or donation.

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

79 In making its determination of whether to allow a telephone
80 solicitation to be made under the policy which will include the
81 limitations set forth in this section, the Attorney General shall
82 exercise due care in investigating previous conduct of the
83 telephone solicitor seeking such authority. The Attorney General
84 may deny any telephone solicitor the privilege of making telephone
85 solicitations under this section, notwithstanding that any of the
86 criteria set forth in this section have been met.

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

89 77-3-711. Except as otherwise provided in Section 77-3-707
90 (4), the provisions of this article shall not apply to:

91 (a) A person soliciting:

92 (i) Who does not make the major sales presentation
93 during the telephone solicitation;

94 (ii) Without the intent to complete or obtain
95 provisional acceptance of a sale, a charitable contribution, or
96 the payment of some other item of value, pecuniary or otherwise,
97 during the telephone solicitation; or



98 (iii) Without the intent to complete, and who does
99 not complete, the sales presentation during the telephone
100 solicitation, but who completes the sales presentation at a later
101 face-to-face meeting between the person soliciting and the
102 prospective purchaser or consumer.

103 (b) A person who is a licensee under Chapter 35, Title
104 73, Mississippi Code of 1972, who is a resident of the State of
105 Mississippi, and whose telephone solicitation is for the sole
106 purpose of selling, exchanging, purchasing, renting, listing for
107 sale or rent or leasing real estate in connection with his real
108 estate license and not in conjunction with any other offer.

109 (c) A motor vehicle dealer as that term is defined in
110 Section 63-17-55, who is a resident of the State of Mississippi
111 and who maintains a current motor vehicle dealer's license issued
112 by the Mississippi Motor Vehicle Commission, whose telephone
113 solicitation is for the sole purpose of selling, offering to sell,
114 soliciting or advertising the sale of motor vehicles in connection
115 with his motor vehicle dealer's license and not in conjunction
116 with any other offer.

117 (d) An agent as that term is defined in Section 83-17-1
118 whose telephone solicitation is for the sole purpose of
119 soliciting, consulting, advising, or adjusting in the business of
120 insurance.

121 (e) A broker-dealer, agent, or investment advisor
122 registered under Chapter 71, Title 75, Mississippi Code of 1972,



123 whose telephone solicitation is for the sole purpose of effecting
124 or attempting to effect the purchase or sale of securities or has
125 the purpose of providing or seeking to provide investment or
126 financial advice.

127 (f) A person calling on behalf of a charitable
128 organization which is registered under Chapter 11, Title 79,
129 Mississippi Code of 1972, whose telephone solicitation is for the
130 sole purpose of soliciting for the charitable organization and who
131 receives no compensation for his activities on behalf of the
132 organization.

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

137 (h) A person calling on behalf of any supervised
138 financial institution or parent, subsidiary or affiliate thereof.
139 As used in this section, "supervised financial institution" means
140 any commercial bank, trust company, savings and loan association,
141 mutual savings bank, credit union, industrial loan company, small
142 loan company, consumer finance lender, commercial finance lender
143 or insurer, provided that the institution has a physical office
144 located in the State of Mississippi and is subject to supervision
145 by an official or agency of the State of Mississippi or of the
146 United States.



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

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

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

156 77-3-723. (1) Any person or entity who makes an authorized
157 telephone solicitation to a consumer in this state shall announce
158 clearly, at the beginning of each call, his or her name, the
159 company he or she represents and the purpose of the call. Such
160 calls may only be made between the hours of 8:00 a.m. and 8:00
161 p.m. Central Standard Time. No telephone solicitations may be
162 made on a Sunday. For purposes of this provision, an "authorized
163 telephone solicitation" means a solicitation that is made: (a) to
164 a consumer who is not listed on the most current "no-calls"
165 database; (b) by a telephone solicitor who has been authorized to
166 make such solicitations under the provisions of Section 77-3-709;
167 (c) by a telephone solicitor that is not prohibited from making,
168 or causing to be made, such solicitations under Section 77-3-707
169 (4); or (* * *d) by a telephone solicitor who is exempt from this
170 article under the provisions of Section 77-3-711.



171 (2) A person or entity who makes a telephone solicitation to
172 a consumer in this state may not utilize knowingly any method that
173 blocks or otherwise circumvents the consumer's use of a caller
174 identification service, nor may the person or entity use an
175 automated dialing system or any like system that uses a recorded
176 voice message to communicate with the consumer unless the person
177 or entity has an established business relationship with the
178 consumer and uses the recorded voice message to inform the
179 consumer about a new product or service.

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

182 77-3-603. Any telephone solicitor who makes an unsolicited
183 telephonic sales call to a residential telephone number shall:

184 (a) Make calls between the hours of 8:00 a.m. and 9:00
185 p.m., Central Standard Time, Monday through Friday, and between
186 the hours of 8:00 a.m. and 9:00 p.m. on Saturdays (no calls shall
187 be made on Sundays);

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

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



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

197 79-11-524. Any fund-raising counsel, professional
198 fund-raiser, professional solicitor or employee of any of these
199 who makes a telephone solicitation subject to the provisions of
200 this chapter to a residential telephone number shall make calls
201 only between the hours of 9:00 a.m. and 9:00 p.m., Monday through
202 Saturday. No calls shall be made on Sundays.

203 **SECTION 7.** This act shall take effect and be in force from
204 and after July 1, 2024.

