

HOUSE No. 00870

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act restricting use and connection of automatic dialing-announcing devices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, and Franklin</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>William "Smitty" Pignatelli</i>	<i>4th Berkshire</i>

HOUSE No. 00870

By Mr. Stephen Kulik of Worthington, petition (accompanied by bill, House, No. 00870) of Jonathan Hecht and others for legislation to restrict callers from using certain automatic dialing devices for sending informaion to subscribers of telephone services . Joint Committee on Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 4730 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act restricting use and connection of automatic dialing-announcing devices.
□.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting, after chapter 159C, the following
2 chapter:- Chapter 159D.

3 Section 1. As used in this chapter, the following words shall, unless the context clearly
4 requires otherwise, have the following meanings:-

5 “Automatic dialing-announcing device”, a device that selects and dials telephone numbers and
6 that, working alone or in conjunction with other equipment, disseminates a prerecorded or
7 synthesized voice message to the telephone number called.

8 “Caller”, a person, corporation, firm, partnership, association, or legal or commercial entity who
9 attempts to contact, or who contacts, a subscriber in the commonwealth by using a telephone or
10 telephone line.

11 “Message”, any call, regardless of its content.

12 “Office”, the office of consumer affairs and business regulation.

13 “Subscriber”, a person who has subscribed to telephone service from a telephone company or
14 any other person living or residing with the subscribing person.

15 Section 2. (a) A caller shall not use or connect to a telephone line an automatic-dialing
16 device unless: (1) the subscriber has knowingly or voluntarily requested, consented to, permitted
17 or authorized receipt of the message; or (2) the message is immediately preceded by a live
18 operator who obtains the subscriber’s consent before the message is delivered.

19 (b) This chapter shall not apply to: (1) messages from school districts to students,
20 parents or employees; (2) messages to subscribers with whom the caller has maintained or had a
21 business relationship within the prior 24 months; (3) messages advising employees of work
22 schedules; (4) messages on behalf of correctional facilities advising victims; or (5) messages on
23 behalf of municipalities and government.

24 Section 3. A caller shall not use an automatic dialing-announcing device unless the device is
25 designed and operated so as to disconnect within 10 seconds after termination of the telephone
26 call by the subscriber.

27 Section 4. Where the message is immediately preceded by a live operator, the operator must,
28 within the first minute, disclose:

29 The name of the business, firm, organization, association, partnership or entity on whose behalf
30 the message is being communicated:

31 The purpose of the message

32 The identity or kind of goods or services the message is promoting; and

33 If applicable, the fact that the message intends to solicit payment or commitment of funds.

34 The approximate length of the call.

35 Section 5. A caller shall not use an automatic dialing-announcing device to call a subscriber
36 between the hours of 8:00PM and 8:00AM, local time at the subscriber's location.

37 Section 6. The office shall establish and maintain a no automatic dialing-announcing device
38 message list of subscribers who do not wish to receive automatic dialing-announcing device
39 messages. The office may contract with a private vendor to establish and maintain such listing
40 provided the contract requires the vendor to provide the no automatic dialing-announcing device
41 message listing in a printed hard copy format and any other format offered at a cost that does not
42 exceed the production cost of the format offered. The office shall provide notice to subscribers of
43 the establishment of a no automatic dialing-announcing device message listing. A subscriber
44 who wishes to be included on the listing shall notify the office by calling a toll-free number
45 provided by the office, or in such manner and at such times as the office may prescribe, which
46 may include electronic notification. The office shall update such listing not less than quarterly
47 and shall make such listing available to automatic dialing-announcing device providers and other
48 persons for a fee as the office shall prescribe.

49 Section 7. Any caller who is found to have violated any provision of this chapter is subject to the
50 penalties and remedies provided in sections 8-13 of chapter 159C.

51 Section 8. The office shall establish an advisory group comprise of government entities, local
52 telecommunications companies, local automatic dialing-announcing device providers,
53 businesses, senior citizens and other community advocates to compile and promote a list of
54 educational literature to help subscribers understand their options with regard to automatic
55 dialing-announcing device calls. The office shall work with local telecommunication companies
56 to disseminate to their residential subscribers information about the availability of and
57 instructions on how to request educational literature from the office. The office shall include on
58 its internet website information that informs subscribers of their rights to be placed on the no
59 automatic dialing-announcing device messages listing and the various methods, including notice
60 to the office, of placing their names on the no automatic dialing-announcing message listing.

61 Section 9. This chapter shall not apply to any outbound telephone call that delivers a prerecorded
62 healthcare message made by, or on behalf of, a covered entity or its business associate, as those
63 terms are defined in the HIPPA Privacy Rule, 45 CFR 160.103.