

1 **SENATE FLOOR VERSION**

2 March 30, 2021

3 ENGROSSED HOUSE  
4 BILL NO. 1891

5 By: Williams, Hilbert, Ranson,  
6 Dills, Roberts (Eric),  
7 McDugle and Bell of the  
8 House

9 and

10 Taylor of the Senate

11 An Act relating to telemarketing practices; amending  
12 15 O.S. 2011, Section 775A.4, which relates to  
13 unlawful telemarketing practices; modifying acts  
14 constituting an unlawful telemarketing practice; and  
15 providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 15 O.S. 2011, Section 775A.4, is  
18 amended to read as follows:

19 Section 775A.4. A. A commercial telephone seller engages in an  
20 unlawful telemarketing practice when, in the course of any  
21 commercial telephone solicitation, the seller:

22 1. Conducts business as a commercial telephone seller without  
23 having registered with the Attorney General, as required by Section  
24 775A.3 of this title;

1        2. Fails to allow the purchaser in any telephone sales  
2 transaction to cancel any purchase or agreement to purchase goods,  
3 services or property at any time before the expiration of three (3)  
4 business days after the purchaser's receipt of such goods, services  
5 or property by delivering or mailing to the commercial telephone  
6 seller written notice of cancellation. Notice of cancellation, if  
7 sent by mail, is deemed to be given as of the date the mailed notice  
8 was postmarked;

9        3. Fails to refund all payments made by any purchaser in any  
10 telephone sales transaction within thirty (30) days after the  
11 commercial telephone seller receives notice of cancellation from the  
12 purchaser, except that:

13            a. if the purchaser has received goods or property from  
14 the commercial telephone seller, other than an item  
15 represented as free, the commercial telephone seller  
16 shall refund all payments made by the purchaser within  
17 thirty (30) days after the commercial telephone  
18 seller's receipt of the returned goods or property,  
19 and

20            b. if the purchaser has received services during the  
21 course of a pay-per-call service call, which services  
22 cannot, by their nature, be returned, the commercial  
23 telephone seller is not required to refund payments to  
24 the purchaser;

1 4. Fails to disclose to the purchaser during a telephone  
2 solicitation that the purchaser has the cancellation rights set  
3 forth in paragraph 2 of this subsection;

4 5. Misrepresents to any person that the person has won a  
5 contest, sweepstakes or drawing, or that the person will receive  
6 free goods, services or property;

7 6. Represents that the seller's goods, services or property are  
8 "free" if the commercial telephone seller charges or collects a fee  
9 from the purchaser in exchange for providing or delivering such  
10 goods, services or property;

11 7. Makes any reference to the commercial telephone seller's  
12 compliance with this act to any purchaser without also disclosing  
13 that compliance with this act does not constitute approval by any  
14 governmental agency of the seller's marketing, advertisements,  
15 promotions, goods or services;

16 8. Uses equipment or techniques the purpose of which is to  
17 intentionally block or avoid detection of the commercial telephone  
18 seller's identity or telephone number by caller identification  
19 devices;

20 9. Uses equipment, systems or procedures which automatically  
21 dial and engage the telephone number of more than one person at a  
22 time resulting in a number of abandoned calls per day that are more  
23 than five percent (5%) of the number of answered calls per day in  
24 any campaign; ~~or~~

1       10. Causes misleading information to be transmitted to a  
2 recipient's caller identification service or device or to otherwise  
3 misrepresent the origin of a telemarketing call. A telemarketer  
4 does not violate this paragraph if the telemarketer substitutes the  
5 name and telephone number of the person on whose behalf the call is  
6 made for the telemarketer's name and telephone number; or

7       11. Engages in any deceptive trade practice defined in Section  
8 752 of this title.

9       B. Paragraphs 2 and 4 of subsection A of this section do not  
10 apply to a transaction in which the consumer obtains a full refund  
11 for the return of undamaged or unused goods or a cancellation of  
12 services by giving notice to the seller within seven (7) days after  
13 receipt by the consumer and the seller processes the refund or  
14 cancellation within thirty (30) days after receipt of the returned  
15 merchandise or the consumer's request for refund for services not  
16 performed or a pro rata refund for any services not yet performed  
17 for the consumer. The availability and terms of the return and  
18 refund privilege shall be disclosed to the consumer orally by  
19 telephone and in writing with any advertising or promotional  
20 material or with the delivery of the product or service. If a  
21 seller offers consumers an unconditional guarantee, a clear  
22 disclosure of such guarantee by using the words "satisfaction  
23 guaranteed", "free inspection" or "no-risk guarantee" satisfy the  
24 disclosure requirements of this subsection.

1 C. The unlawful telemarketing practices listed in this section  
2 are in addition to and do not limit the types of unfair trade  
3 practices actionable at common law or under other civil and criminal  
4 statutes of this state.

5 D. Any violations of this act are violations of the Oklahoma  
6 Consumer Protection Act.

7 SECTION 2. This act shall become effective November 1, 2021.

8 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
9 March 30, 2021 - DO PASS

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