

4581

2013-2014 Regular Sessions

I N S E N A T E

April 12, 2013

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to pre-recorded political messages

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Paragraphs (d) and (e) of subdivision 1 of section 399-p of
2 the general business law, as amended by chapter 581 of the laws of 1992,
3 are amended and two new paragraphs (f) and (g) are added to read as
4 follows:
5 (d) "consumer telephone call" means a call made to a telephone number
6 by a telephone solicitor, whether by device, live operator, or any
7 combination thereof, for the purpose of soliciting a sale of any consum-
8 er goods or services for personal, family or household purposes to the
9 consumer called, or for the purpose of soliciting an extension of credit
10 for consumer goods or services to the consumer called, or for the
11 purpose of obtaining information that will or may be used for the direct
12 solicitation of a sale of consumer goods or services to the consumer
13 called or an extension of credit for such purposes; provided, however,
14 that "consumer telephone call" shall not include a call made by a tele-
15 phone corporation, as defined by subdivision seventeen of section two of
16 the public service law, in response to a specific inquiry initiated by a
17 consumer regarding that consumer's existing or requested telephone
18 service; [and]
19 (e) "telephone solicitor" means a person who makes or causes to be
20 made a consumer telephone call[.];
21 (F) "POLITICAL COMMITTEE" SHALL HAVE THE SAME MEANING AS SUBDIVISION
22 ONE OF SECTION 14-100 OF THE ELECTION LAW; AND
23 (G) "PRE-RECORDED POLITICAL MESSAGE" SHALL MEAN A PRE-RECORDED AUDIO
24 MESSAGE DELIVERED BY TELEPHONE THAT IS BY:
25 I. A CANDIDATE OR POLITICAL COMMITTEE; OR

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 II. ANY PERSON WHEN THE CONTENT OF THE MESSAGE EXPRESSLY OR IMPLICITLY
2 ADVOCATES THE SUCCESS OR DEFEAT OF ANY PARTY, MEASURE, OR PERSON AT ANY
3 ELECTION, OR CONTAINS INFORMATION ABOUT ANY CANDIDATE OR PARTY.

4 S 2. Subdivisions 7, 8 and 9 of section 399-p of the general business
5 law are renumbered subdivisions 8, 9 and 10 and a new subdivision 7 is
6 added to read as follows:

7 7. (A) NO PERSON OR POLITICAL COMMITTEE SHALL DELIVER OR KNOWINGLY
8 CAUSE TO BE DELIVERED USING AN AUTOMATIC DIALING-ANNOUNCING DEVICE A
9 PRE-RECORDED POLITICAL MESSAGE UNLESS A LIVE OPERATOR PROVIDES, WITHIN
10 THE FIRST THIRTY SECONDS OF THE MESSAGE THE FOLLOWING INFORMATION:

11 I. THE NAME OF THE CANDIDATE OR OF ANY ORGANIZATION OR ORGANIZATIONS
12 THE PERSON IS CALLING ON BEHALF OF; AND

13 II. THE NAME OF THE PERSON OR ORGANIZATION PAYING FOR THE DELIVERY OF
14 THE MESSAGE AND THE NAME OF THE TREASURER OF ANY SUCH COMMITTEE.

15 (B) A COPY OF ALL SUCH SCRIPTS AND SCHEDULES OF SUCH CALLS SHALL BE
16 FILED WITH THE NEW YORK STATE BOARD OF ELECTIONS PURSUANT TO ARTICLE
17 FOURTEEN OF THE ELECTION LAW WITHIN TWENTY-FOUR HOURS OF SUCH CALLS
18 BEING MADE.

19 (C) ANY PERSON OR POLITICAL COMMITTEE OPERATING AN AUTOMATIC DIALING-
20 ANNOUNCING DEVICE OR PLACING ANY CONSUMER TELEPHONE CALLS OR PRE-RECORD-
21 ED POLITICAL MESSAGES SHALL REGISTER WITH THE SECRETARY OF STATE AS WELL
22 AS THE NEW YORK STATE BOARD OF ELECTIONS.

23 (D) THE ATTORNEY GENERAL SHALL HAVE THE POWER TO INVESTIGATE
24 VIOLATIONS OF THIS SUBDIVISION. SUCH POWER SHALL ALSO INCLUDE THE ABILI-
25 TY TO SUBPOENA RECORDS IN FURTHERANCE OF ANY SUCH INVESTIGATION.

26 (E) VIOLATIONS OF THIS SUBDIVISION SHALL BE PUNISHABLE BY A CIVIL FINE
27 NOT TO EXCEED TWO THOUSAND DOLLARS PER OCCURRENCE.

28 S 3. This act shall take effect immediately.