S T A T E O F N E W Y O R K

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:

Section 1. Paragraphs (d) and (e) of subdivision 1 of section 399-p of the general business law, as amended by chapter 581 of the laws of 1992, are amended and two new paragraphs (f) and (g) are added to read as follows:

(d) "consumer telephone call" means a call made to a telephone number by a telephone solicitor, whether by device, live operator, or any combination thereof, for the purpose of soliciting a sale of any consumer goods or services for personal, family or household purposes to the consumer called, or for the purpose of soliciting an extension of credit for consumer goods or services to the consumer called, or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services to the consumer called or an extension of credit for such purposes; provided, however, that "consumer telephone call" shall not include a call made by a telephone corporation, as defined by subdivision seventeen of section two of the public service law, in response to a specific inquiry initiated by a consumer regarding that consumer's existing or requested telephone service; [and]

(e) "telephone solicitor" means a person who makes or causes to be made a consumer telephone call[.];

(F) "POLITICAL COMMITTEE" SHALL HAVE THE SAME MEANING AS SUBDIVISION ONE OF SECTION 14-100 OF THE ELECTION LAW; AND

(G) "PRE-RECORDED POLITICAL MESSAGE" SHALL MEAN A PRE-RECORDED AUDIO MESSAGE DELIVERED BY TELEPHONE THAT IS BY:

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

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

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

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

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

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

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

(D) THE ATTORNEY GENERAL SHALL HAVE THE POWER TO INVESTIGATE VIOLATIONS OF THIS SUBDIVISION. SUCH POWER SHALL ALSO INCLUDE THE ABILITY TO SUBPOENA RECORDS IN FURTHERANCE OF ANY SUCH INVESTIGATION.

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

S 3. This act shall take effect immediately.