

6809

I N S E N A T E

February 24, 2016

Introduced by Sen. VALESKY -- 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 the transmission of caller identification to consumers

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) "CALLER IDENTIFICATION INFORMATION" MEANS INFORMATION PROVIDED BY
22 A CALLER IDENTIFICATION SERVICE REGARDING THE TELEPHONE NUMBER AND NAME
23 OF THE PERSON CALLING; AND
24 (G) "CALLER IDENTIFICATION SERVICE" MEANS ANY SERVICE OR DEVICE
25 DESIGNED TO PROVIDE THE USER OF SUCH SERVICE OR DEVICE WITH THE TELE-
26 PHONE NUMBER AND NAME OF THE PERSON PLACING THE CALL.

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

LBD14108-02-6

1 S 2. Subdivision 3 of section 399-p of the general business law, as
2 amended by chapter 581 of the laws of 1992, is amended to read as
3 follows:

4 3. Whenever telephone calls are placed through the use of an automatic
5 dialing-announcing device, such device shall do all of the following:

6 (a) TRANSMIT TO EACH CONSUMER CALLER IDENTIFICATION INFORMATION IF
7 SUCH CONSUMER HAS A CALLER IDENTIFICATION SERVICE;

8 (B) state at the beginning of the call the nature of the call and the
9 name of the person or on whose behalf the message is being transmitted
10 and at the end of such message the address, and telephone number of the
11 person on whose behalf the message is transmitted, provided such disclo-
12 sures are not otherwise prohibited or restricted by any federal, state
13 or local law; and

14 [(b)] (C) disconnect the automatic dialing-announcing device from the
15 telephone line upon the termination of the call by either the person
16 calling or the person called.

17 S 3. Paragraph k of subdivision 1 of section 399-z of the general
18 business law, as amended by chapter 369 of the laws of 2012, is amended
19 and two new paragraphs l and m are added to read as follows:

20 k. "Unsolicited telemarketing sales call" means any telemarketing
21 sales call other than a call made:

22 (i) in response to an express written or verbal request by the custom-
23 er; or

24 (ii) in connection with an established business relationship, which
25 has not been terminated by either party, unless such customer has stated
26 to the telemarketer that such customer no longer wishes to receive the
27 telemarketing sales calls of such telemarketer[.];

28 L. "CALLER IDENTIFICATION INFORMATION" MEANS INFORMATION PROVIDED BY A
29 CALLER IDENTIFICATION SERVICE REGARDING THE TELEPHONE NUMBER AND NAME OF
30 THE PERSON CALLING; AND

31 M. "CALLER IDENTIFICATION SERVICE" MEANS ANY SERVICE OR DEVICE
32 DESIGNED TO PROVIDE THE USER OF SUCH SERVICE OR DEVICE WITH THE TELE-
33 PHONE NUMBER AND NAME OF THE PERSON PLACING THE CALL.

34 S 4. The opening paragraph of subdivision 2 of section 399-z of the
35 general business law, as amended by chapter 369 of the laws of 2012, is
36 amended to read as follows:

37 No telemarketer or seller shall engage in telemarketing at any time
38 other than between 8:00 A.M. and 9:00 P.M. at the location of the
39 customer unless the customer has given his or her express consent to the
40 call at a different time. TELEMARKETERS SHALL TRANSMIT TO EACH CUSTOMER
41 CALLER IDENTIFICATION INFORMATION IF SUCH CUSTOMER HAS A CALLER IDEN-
42 TIFICATION SERVICE. Telemarketers shall provide, in a clear and coherent
43 manner using words with common and everyday meanings, at the beginning
44 of each telemarketing sales call all of the following information:

45 S 5. Subdivision 2 of section 399-pp of the general business law is
46 amended by adding two new paragraphs n and o to read as follows:

47 N. "CALLER IDENTIFICATION INFORMATION" MEANS INFORMATION PROVIDED BY A
48 CALLER IDENTIFICATION SERVICE REGARDING THE TELEPHONE NUMBER AND NAME OF
49 THE PERSON CALLING.

50 O. "CALLER IDENTIFICATION SERVICE" MEANS ANY SERVICE OR DEVICE
51 DESIGNED TO PROVIDE THE USE OF SUCH SERVICE OR DEVICE WITH THE TELEPHONE
52 NUMBER AND NAME OF THE PERSON PLACING THE CALL.

53 S 6. Paragraph b of subdivision 6 of section 399-pp of the general
54 business law, as added by chapter 546 of the laws of 2000, is amended to
55 read as follows:

1 b. Telemarketers shall provide all of the following information, in a
2 clear and coherent manner using words with common and everyday meanings,
3 when making a telemarketing call:

4 (1) CALLER IDENTIFICATION INFORMATION IF SUCH CUSTOMER HAS A CALLER
5 IDENTIFICATION SERVICE;

6 (2) at the beginning of the call and prior to any request by the call-
7 er of the customer to release or disclose any of the customer's personal
8 or financial information, including but not limited, to the customer's
9 name, address, credit card, checking account or other financial account
10 number or information:

11 (a) that the purpose of the telephone call is to offer goods or
12 services for which a fee will be charged or to provide an investment
13 opportunity, whichever is the case;

14 (b) the telemarketer's name and the person on whose behalf the solici-
15 tation is being made if other than the telemarketer; and

16 (c) the identity of the goods or services for which a fee will be
17 charged;

18 ~~[(2)]~~ (3) the cost of the goods or services that are the subject of
19 the call.

20 ~~[(3)]~~ (4) in any prize promotion, the odds of being able to receive
21 the prize, and if the odds are not calculable in advance, the factors
22 used in calculating the odds; that no purchase or payment is required to
23 win a prize or to participate in a prize promotion; and the no
24 purchase/no payment method of participating in the prize promotion with
25 either instructions on how to participate or an address or local or
26 toll-free telephone number to which customers may write or call for
27 information on how to participate; and all material costs or conditions
28 to receive or redeem a prize that is the subject of the prize promotion.

29 S 7. Paragraphs d and e of subdivision 7 of section 399-pp of the
30 general business law, as added by chapter 546 of the laws of 2000, are
31 amended and a new paragraph f is added to read as follows:

32 d. engage in telemarketing to a person's residence at any time other
33 than between 8:00 A.M. and 9:00 P.M. local time, at the called person's
34 location; [or]

35 e. make a false, deceptive or misleading statement in regard to the
36 requirements of subdivision six of this section to a customer, or to
37 engage in any deceptive or unfair act or practice in association with
38 telemarketing[.]; OR

39 F. PROVIDE FALSE CALLER IDENTIFICATION INFORMATION, OR FAIL TO PROVIDE
40 ANY CALLER IDENTIFICATION INFORMATION.

41 S 8. This act shall take effect immediately.