

SECOND REGULAR SESSION

# SENATE BILL NO. 735

90TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS SINGLETON AND WESTFALL.

Pre-filed December 21, 1999, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to unsolicited consumer telephone calls, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.725, to read as follows:

**407.725. 1. As used in this section, the following words and phrases mean:**

**(1) "Automatic dialing-announcing device", any user terminal equipment that when connected to a telephone line can:**

**(a) Dial, with or without manual assistance, telephone numbers; or**

**(b) Disseminate a recorded message to the telephone number called, either with or without manual assistance;**

**(2) "Consumer telephone call", a call made by a telephone solicitor to the residence of a consumer for the purpose of soliciting a sale of any property or service to the person called, or for the purpose of soliciting an extension of credit for property or services to the person called, or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of property or services to the person called or an extension of credit for such purposes;**

**(3) "Telephone solicitor", any natural person, firm, organization, partnership, association or corporation who makes or causes to be made a consumer telephone call, including, but not limited to, calls made by use of automatic dialing-announcing device;**

**(4) "Unsolicited consumer telephone call", a consumer telephone call other than a call made:**

**(a) In response to an express request of the person called;**

**(b) Primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call;**

**(c) To any person with whom the telephone solicitor has an existing business relationship; or**

**(d) By a newspaper publisher or such publisher's agent or employee in connection with such publisher's business.**

**2. Any telephone solicitor who makes an unsolicited consumer telephone call to a residential telephone number shall disclose promptly and in a clear and conspicuous manner:**

**(1) The identity of the seller;**

**(2) That the purpose of the call is to sell goods or services;**

**(3) The nature of the goods or services;**

**and within five seconds of the termination of the call by the person being called, hang up the phone or, in the case of an automatic dialing-announcing device operator, disconnect the automatic dialing-announcing device from the telephone line.**

**3. A telephone solicitor shall not withhold the display of the telephone solicitor's telephone number from a caller identification service when that number is being used for telemarketing purposes and when the equipment and service capability exist to display the solicitor's telephone number.**

**4. A telephone solicitor shall not transmit any information by facsimile machine or computer to a consumer after the consumer requests orally or in writing that such transmissions cease.**

**5. A telephone solicitor shall not make any arrangements for a direct transfer from any deposit account held by a person on the basis of information gained pursuant to an unsolicited consumer telephone call without obtaining prior, express written permission from such person to authorize such direct transfer.**

**6. Telecommunications companies, as defined pursuant to section 386.020, RSMo, shall not be responsible for the enforcement of the provisions of this section.**

**7. Any violation of this section shall constitute an unlawful practice pursuant to section 407.020.**

**8. The provisions of this section shall not apply to:**

**(1) Telephone calls in which the sale of goods or services is not completed, and payment or authorization of payment is not required, until after a face-to-face sales presentation by the telemarketer; and**

**(2) Telephone calls initiated by a customer that are not the result of any solicitation by a seller or telemarketer.**

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