

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5387

A bill to amend 1913 PA 206, entitled

"An act to declare telephone lines and telephone companies within this state to be common carriers; to regulate the telephone business; to confer certain powers, duties, and responsibilities on the public service commission; to provide for the consolidation of telephone lines and telephone companies; to prohibit certain uses of telephone lines and telephone equipment; to regulate persons using telephone lines and telephone equipment; to prescribe a penalty for the violation of this act; and to repeal certain acts and parts of acts on specific dates,"

by amending section 25 (MCL 484.125), as added by 1980 PA 47.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 25. (1) As used in this section:

2 (a) "Caller" means an individual, corporation, firm, part-
3 nership, association, or legal or commercial entity who attempts
4 to contact or who contacts a subscriber in this state via tele-
5 phone or by using a telephone line.

6 (b) "CALLER IDENTIFICATION INFORMATION" MEANS THE TELEPHONE
7 NUMBER FROM WHICH THE CALL ORIGINATES OR THE NAME OF THE

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1 INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL
2 ENTITY SUBSCRIBING TO THAT TELEPHONE NUMBER.

3 (C) "INTRASTATE" MEANS ORIGINATING AND DELIVERING WITHIN
4 THIS STATE.

5 (D) ~~-(b)-~~ "Subscriber" means an individual who has sub-
6 scribed to residential telephone service from a telephone company
7 regulated by this state, and all other persons with the same
8 legal residence as the subscribing individual.

9 (2) A caller shall not use a telephone line to contact a
10 subscriber at the subscriber's residence to ~~deliver~~ DO EITHER
11 OF THE FOLLOWING:

12 (A) DELIVER a recorded message for the purpose of
13 ~~delivering~~ PRESENTING commercial advertising to the subscriber,
14 unless either of the following occurs:

15 (i) ~~-(a)-~~ The subscriber has knowingly and voluntarily
16 requested, consented, permitted, or authorized the contact from
17 the caller.

18 (ii) ~~-(b)-~~ The subscriber has knowingly and voluntarily pro-
19 vided his or her telephone number to the caller.

20 (B) DELIVER OR ATTEMPT TO DELIVER INTRASTATE COMMERCIAL
21 ADVERTISING IF THE CALLER ACTIVATES A FEATURE TO BLOCK THE DIS-
22 PLAY OF CALLER IDENTIFICATION INFORMATION THAT WOULD OTHERWISE BE
23 AVAILABLE TO THE SUBSCRIBER.

24 (3) The authorization to contact a subscriber granted under
25 subsection ~~-(2)-(a)-~~ (2)(A)(i) shall not be transferred, assigned,
26 or sold without the written permission of the subscriber.

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1 (4) The use of automated dialing, push button, or tone
2 activated devices which operate sequentially or are otherwise
3 unable to avoid contacting subscribers who have not authorized
4 the contact as provided in subsection (2) is prima facie evidence
5 of an intention to violate this act.

6 (5) A subscriber contacted by a caller in violation of this
7 section may bring an action to recover damages of ~~not more than~~
8 ~~\$250.00~~ \$1,000.00, together with reasonable attorneys' fees.

9 (6) An employee or officer of a telephone company shall
10 report a person whom the employee or officer in good faith
11 believes may be violating or has violated this act. Alleged vio-
12 lations of this act shall be reported to the county prosecutor
13 for the county in which the violation occurred.

14 (7) This section ~~shall~~ DOES not prohibit the use of auto-
15 matic dialing equipment for the purpose of advising customers
16 concerning merchandise or goods or services previously ordered.

17 (8) A caller who violated this section is guilty of a misde-
18 meanor, punishable by a fine of \$1,000.00 ~~—~~ or imprisonment for
19 10 days, or both.