

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Mike Wilson**

A Bill

HOUSE BILL 1085

For An Act To Be Entitled

8 *"AN ACT TO RESTRICT UNSOLICITED CONSUMER TELEPHONE CALLS;*
9 *AND FOR OTHER PURPOSES."*

10

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

12

13 *SECTION 1. As used in this Act:*

14 *(a) "consumer telephone call" means a call made by a telephone*
15 *solicitor for the purpose of soliciting a sale of any consumer goods or*
16 *services to the person called, or for the purpose of soliciting an extension*
17 *of credit for consumer goods or services to the person called, or for the*
18 *purpose of obtaining information that will or may be used for the direct*
19 *solicitation of a sale of consumer goods or services to the person called or*
20 *an extension of credit for such purposes.*

21 *(b) "consumer goods or services" means any tangible personal property*
22 *which is normally used for personal, family, or household purposes, including,*
23 *without limitation, any such property intended to be attached to or installed*
24 *in any real property without regard to whether it is so attached or installed,*
25 *as well as cemetery lots and time-share estates and any services related to*
26 *such property.*

27 *(c) "unsolicited consumer telephone call" means a consumer telephone*
28 *call other than a call made:*

29 *(1) in response to an express request of the person called.*

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

32 *(3) to any person with whom the telephone solicitor has an existing*
33 *business relationship.*

34 *(d) "Commission" means the Arkansas Public Service Commission.*

35 *(e) "telephone solicitor" means any natural person, firm organization,*

1 partnership, association, or corporation who makes or causes to be made a
2 consumer telephone call.

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4 SECTION 2. Any telephone solicitor who makes an unsolicited consumer
5 telephone call to a residential telephone number shall:

6 (1) identify himself or herself and the business on whose behalf he or
7 she is soliciting immediately upon making contacts by telephone with the
8 person who is the object of the telephone solicitation; and

9 (2) within thirty (30) seconds after beginning the conversation,
10 inquire whether the person being solicited is interested in listening to a
11 sales presentation and immediately discontinue the solicitation if the person
12 being solicited gives a negative response.

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14 SECTION 3. The Public Service Commission shall maintain a registry
15 indicating residential telephone subscribers who do not wish to receive
16 unsolicited consumer telephone calls. Any residential telephone subscriber
17 who does not wish to receive unsolicited consumer telephone calls may notify
18 the Public Service Commission and thereby be placed on the list of subscribers
19 who do not wish to receive unsolicited telephone calls.

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21 SECTION 4. No telephone solicitor shall make or cause to be made any
22 unsolicited consumer telephone call to any residential telephone number if
23 that number has been listed with the Public Service Commission pursuant to
24 Section 3 of this Act.

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26 SECTION 5. No telephone solicitor shall attempt to contact by telephone
27 any person whose residential telephone number is not included in the most
28 recently published telephone directory as the result of a request for an
29 unpublished telephone number, unless the person making such solicitation has
30 had a previous business relationship with the person solicited.

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32 SECTION 6. The Public Service Commission shall investigate any
33 complaints received concerning violations of this Act. If, after
34 investigating any complaint, the Commission finds that there has been a
35 violation of this Act, it may bring an action to impose a civil penalty and to

1 *seek such other relief, including injunctive relief, as the court deems*
2 *appropriate against the telephone solicitor. The civil penalty shall not*
3 *exceed ten thousand dollars (\$10,000) per violation and shall be deposited in*
4 *the State Treasury as general revenues.*

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6 *SECTION 7. In addition to the penalties described in Section 6,*
7 *violations of this Act shall be punishable as class A misdemeanors.*

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9 *SECTION 8. This Act shall take effect October 1, 1991.*

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11 *SECTION 9. All provisions of this Act of a general and permanent nature*
12 *are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code*
13 *Revision Commission shall incorporate the same in the Code.*

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15 *SECTION 10. If any provision of this Act or the application thereof to*
16 *any person or circumstance is held invalid, such invalidity shall not affect*
17 *other provisions or applications of the Act which can be given effect without*
18 *the invalid provision or application, and to this end the provisions of this*
19 *Act are declared to be severable.*

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21 *SECTION 11. All laws and parts of laws in conflict with this Act are*
22 *hereby repealed.*

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/s/ M. Wilson

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