



REGIONAL RESOURCE

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A Review of Southern States' No-Call Registries

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Introduction

The use of the telephone to market goods and services has become pervasive in recent decades due to myriad factors. While some consider the telephone a legitimate marketing tool, helping connect business and the public, others view this method of solicitation as intrusive. Many consumers have voiced their objections, calling for telemarketing regulation. Accordingly, policymakers around the country have acted on public complaints of what some deem “a proliferation of intrusive nuisance calls,” with several states recently enacting restrictions on telephone solicitations, particularly to a personal residence.¹

Among the most popular of these measures has been the adoption of “no-call” lists – registries whereby residents may place their names and telephone numbers on state-maintained lists to be shielded from receiving most unsolicited telemarketing sales calls, and some facsimile transmissions. As of April 2002, a total of 26 states nationwide, and nine in the South, had enacted no-call laws, and the Federal Trade Commission has proposed establishing a national no-call registry. While there exists private no-call databases, and several businesses have internal regulations in this area, many argue that such measures are voluntary and unenforceable, thus advocating and welcoming government measures, and the power of law to enforce them.

This Southern Legislative Conference (SLC) *Regional Resource* examines Southern states' no-call lists; enabling legislation and regulations; applicability; registration procedures; exemptions; procurement; complaint processes; applicable penalties for violation; and various budgetary and administrative issues. Provided first is an overview of no-call lists and a state comparison in this area. Following is a more in-depth state-by-state analysis. Select state laws governing telemarketers' use of automated telephone systems and the blockage of, or interference with, caller identification also are highlighted, though such measures are not necessarily covered by no-call statutes.

While states use slightly different terminology in this area, for the purposes of this report, “telemarketer” refers to companies, organizations, partnerships, associations, corporations, or persons making telephone solicitations for the purpose of encouraging a consumer's purchase, rental, or investment in property, goods, services, and charitable causes, among others. The term “no-call list,” is utilized throughout to refer to registries

established to prevent unsolicited telemarketing calls, with the terms “database” and “registry” used interchangeably. While all Southern states have laws regulating various aspects of telephone solicitation and fraud, this report focuses on states which have instituted no-call lists. If legislation enacting such lists also covers other telemarketing practices, relevant information is provided.

No-Call Proponents

Proponents argue that the home is a place where privacy needs to be respected. People, they believe, are due peace and quiet in their dwellings, and have the right not to be harassed with phone calls from telemarketers. Georgia's 1998 no-call legislation expresses this argument best: “telemarketing can be an intrusive and relentless invasion of the privacy and peacefulness of the home...many citizens of this state are outraged over the proliferation of nuisance calls to their homes from telemarketers.” Others point out that some consumers maintain telephone service primarily for emergency medical situations and unrestricted telemarketing calls may create a health and safety risk for these consumers.

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Other groups, such as the AARP, primarily are concerned with the potential criminal aspect of telemarketing, urging protections for senior citizens from unscrupulous phone-solicitors. Congress estimates that telemarketing fraud costs American consumers about \$40 billion per year. According to Larry Spitzer, associate director of the Nevada chapter of the AARP, well over half of the people targeted by telemarketers each day are over age 50.² The AARP estimates that there are approximately 140,000 telemarketing firms operating in America, and up to 10 percent of those may be fraudulent, calling hundreds of thousands of Americans everyday.³ Not surprisingly, the AARP has been one of the most avid proponents of adopting no-call lists during debate in state capitols across the country.

No-Call Opponents

Perhaps the most prominent arguments against government no-call lists are contentions that they violate free speech rights, and that states enacting strict no-call lists are hindering interstate commerce.

Opponents also contend that no-call lists hurt states' business climates by forbidding corporations from being able to offer customers new products and services. Small businesses, many argue, will be especially vulnerable. Also in debating Kentucky's 2002 no-call legislation, a representative for the Kentucky Retail Federation said she wanted to ensure that local businesses in the state are "not inappropriately lumped in with telemarketing businesses. Local businesses still should be able to use the telephone," she argued.⁴

As for bigger operations, Stefanie Scott, a WorldCom spokeswoman, in debate surrounding an unsuccessful attempt to create Mississippi's no-call list in 2002, said many people prefer to conduct business over the telephone. "It takes a sizable work force to support this type of consumer demand," she said. "It is important, particularly in a time of economic slowdown, that it continues to be a source of hundreds of thousands of jobs nationwide."⁵ In late September 2001, Barbara Haynes, representing the Direct Marketing Association and BellSouth, asked Louisiana legislators to suspend the state's soon-to-be-implemented no-call list to protect jobs while the economy recovered from the September 11 terrorist attacks. "With the events of September 11, quite a few people have already lost their jobs," Haynes said, expressing concern

over the future employment of the state's estimated 175,000 telemarketing staffers and the industry's annual \$18 million impact in Louisiana.⁶

Others assert that the creation and maintenance of no-call lists cost states, thus taxpayers, too much money, and that attorney generals' offices or other state agencies would be prevented from carrying out other vital functions due to their responsibilities in investigating and prosecuting complaints of no-call violations. To them, no-call lists create unnecessary bureaucracy, perpetuating government regulation.

Some have expressed First Amendment concerns. While newspapers sometimes are exempted from no-call lists, most often they are not. This has raised free speech issues. In arguing, unsuccessfully, to exempt his clients from 2002 no-call legislation being considered in Arizona, Phil MacDonnell, lobbyist for the Arizona Newspaper Association, stressed that soliciting subscriptions is crucial to protecting the First Amendment by maintaining an open forum.⁷

Proposed Federal No-Call List

On January 22, 2002, the United States Federal Trade Commission (FTC) proposed the creation of a national "Do Not Call" registry. This proposal would modify the Commission's Telemarketing Sales Rule (TSR) which, among other provisions, already forbids telemarketers from calling between 9:00 p.m. and 8:00 a.m., and participating in deceptive sales practices.⁸ The TSR was promulgated following the passage of the Telephone Consumer Protection Act of 1991.

Under the proposed national no-call registry, consumers would be able to eliminate many unsolicited telemarketing calls by making a toll-free telephone call to the FTC and placing their phone number on the FTC-maintained list. Telemarketers, with exceptions, would then be forbidden from calling those on the list. Exempted would be telephone carriers, insurance companies, and others who do not fall under FTC's scope of regulation.

The FTC also has recommended other modifications to the TSR, including its expansion to calls soliciting charitable contributions (currently the TSR covers only calls made to sell good and services – by law, nonprofit charitable organizations are exempt from the FTC's jurisdiction). Among other

provisions, the proposed registry and other rule changes would:

- allow consumers who register for the no-call list to continue receiving calls from a company or charity to which they have authorized phone contact;
- expand upon current FTC prize promotion disclosures to include a statement that any purchase or payment will not increase a consumer's chances of winning;
- prohibit the practices of receiving any consumer's billing information from any third party for use in telemarketing, or disclosing any consumer's billing information to any third party for use in telemarketing; and
- prohibit the blocking, or otherwise subverting the transmission, of the name and/or telephone number of the calling party for call identification purposes or denying or interfering in any way with a consumer's right to be placed on a no-call list.⁹

Citing the FTC proposal in debating proposed amendments to Kentucky's no-call list in 2002, Senate President David Williams noted that there was no urgency in amending the state's 1998 no-call list since the FTC likely will create a national registry.¹⁰ According to Williams' legislative aide, Doug Hogan, the national no-call list "may provide a more meaningful solution than proposals that are simply window dressing."¹¹

Others, however, remain unconvinced about abandoning states' no-call ambitions, pointing out that the FTC's registry would not regulate telemarketing calls made within states. Eileen Harrington, associate director of the FTC's Marketing Practices Division, cautioned that the adoption of the FTC's proposal is not certain. Harrington noted that, even if the no-call list is approved, "it will not be so until July 2002 and, if passed, would likely not be running until early 2003."¹²

Of note, in March 2002, Connecticut Congresswoman Nancy Johnson introduced legislation for a federal no-call list that would cover industries which would not be effected by the FTC's proposed list. During the comment period for the proposed FTC rule, more than 30,000 people sent comments – the most the FTC has ever received on any issue.

During no-call debates at the state level in the past year, much attention has been given to the proposed national do-not-call

registry, and what impact this will have on both telemarketers and state no-call lists. Some have questioned the overall reach of this proposal, whether state action is necessary if a national registry is implemented, and whether federal action will preempt state efforts. A few states considering no-call laws have postponed their adoption, awaiting action on the national registry. Regardless of the success or scope of the national registry, it is important to note that its adoption would not prevent states from creating their own lists. Furthermore, in its current form, the national no-call list would not affect state no-call lists which are currently operating.

The Direct Marketing Association's Telephone Preference Service

Critics of state-maintained no-call lists often point out that there are other, non-bureaucratic and non-taxpayer-funded remedies for those seeking to curb unsolicited telemarketing calls. One such option frequently advocated is the Direct Marketing Association's (DMA) Telephone Preference Service (TPS). The DMA boasts itself as "the largest trade association for businesses interested in direct, database, and interactive global marketing, with about 4,700 member companies from the United States and 53 foreign nations on six continents."¹³

To receive fewer unsolicited telemarketing calls, DMA established the Telephone Preference Service in 1985, allowing consumers to "opt out" of select national telemarketing lists. According to the DMA, all of its members are required to run their telemarketing list of prospective customers against the TPS registration file and remove those registered from their calling lists. The TPS list is updated monthly and distributed quarterly to affected and interested telemarketers. For a \$5 fee, consumers can register for TPS for a five-year term. According to DMA, although registration with TPS will help reduce the amount of unsolicited telemarketing calls, consumers may continue to receive calls from companies with which they already do business, from non-DMA organizations, local merchants, professional and alumni associations, political candidates and office holders, religious and charitable organizations, and business-to-business calls – many of the same groups that often are exempted from states' no-call lists.

However, the TPS differs from most states' registries in that it is not enforceable by any state (or federal) court or agency, has no provisions restricting the use of automated recorded message calls or caller identification blocking devices, and is reviewed only by DMA members.

In addition to DMA, scores of private no-lists have been created around the country both at the state and national level, and many companies claim to adhere to internal no-call registries of consumers who have asked to not be solicited. But like the TPS, these voluntary lists have no legal effect on telemarketers, and enforcement mechanisms are seen by many as being too weak.

Southern State No-Call Laws and Regulations

As of April 2002, nine Southern states – Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, and Texas – had enacted no-call laws, creating registries of residents' names and numbers who do not wish to receive unsolicited telemarketing calls. While Oklahoma enacted its law in April 2002, its no-call list is not to be effective until July 1, 2002. Because regulations governing the list have yet to be promulgated by the state's attorney general, the comparative information in this section focuses primarily on the other eight Southern states whose lists already are in effect.

Effective dates mark the date by which a state's no-call list's final regulations were in place, and the beginning of the period during which residents could register for the service. In most states, the initial registration period lasts three months. Then, an additional few months are allowed before requiring telemarketers to abide by registrants' no-call requests. In all Southern states there is a period between the date when a consumer registers for the no-call list and the date on which telemarketers must honor that registration. Specific registration periods and requirements are listed in the state sections.

Of Southern states, Florida's no-call list was the first to become effective, in 1987, and subsequently amended in 1990. Kentucky's no-call list was next and took effect on July 1, 1998, with significant amendments effective July 1, 2002. Georgia's became effective on January 1, 1999; followed by no-call lists in Tennessee, July 1, 2000; Missouri, July 1,

2001; and Arkansas, Louisiana and Texas, all commencing on January 1, 2002.

While Southern state no-call laws are similar, in that they establish registries whereby persons can list their residential phone numbers (none apply to business numbers) to prevent most telemarketing solicitations, policies differ somewhat in addressing such practices as the blocking of caller identification systems, the use of automated calling equipment,¹⁴ acceptable phone solicitation hours, and telemarketer identification requirements.

Among other facets of Southern no-call laws:

- Arkansas, Georgia, Louisiana, Missouri, Tennessee, and Texas statutes forbid telemarketers from blocking or otherwise interfering with residents' caller identification systems;
- Arkansas, Florida, Georgia, Kentucky and Louisiana forbid or severely restrict telemarketers from using automated systems for the selection and dialing of telephone numbers and the playing of recorded messages;
- Louisiana does not allow telemarketers to call on Sundays or legal holidays, or to make calls between 8:00 p.m. and 8:00 a.m.;
- Missouri and Tennessee prevent telemarketers from calling between 8:00 p.m. and 9:00 a.m.; and
- Florida, Georgia, Louisiana, Missouri, Tennessee, and Texas require, to varying degrees, telemarketers to identify themselves and the businesses they represent and/or the contact information for that business.

Registering for No-Call Lists

For the most part, the registration processes in the eight SLC states are similar. However, the fees required of registrants, the length of time a resident's phone number remains registered, the frequency by which lists are updated, and state-required no-call advertising campaigns vary somewhat.

How to Register – Arkansas, Florida and Louisiana allow residents to register for no-call lists by phone or mail, with forms available from the Internet for mailing; Georgia, Louisiana, Missouri, Tennessee and Texas accept registrations by mail, phone or online; and Kentucky accepts registrations by mail or online. Louisiana, Tennessee and Texas allow individuals to check, via the Internet, whether or not their phone number is registered on their state list.

Registration Fees and Renewal – Four states, Kentucky, Louisiana, Missouri and Tennessee, allow residents to register free of charge; Arkansas and Georgia charge residents a \$5 fee; Florida requires a \$10 fee; and Texas charges \$2.25. Once registered, residents’ phone numbers remain indefinitely on no-call lists in Kentucky and Missouri, or until the resident requests that it be removed or the number is no longer held by the person registering it. A number remains on Arkansas and Florida’s no-call lists for one year before registration must be renewed; Georgia’s no-call registries are valid for two years; Texas’s for three years; and Louisiana and Tennessee require registrations be renewed every five years.

Updating the List – Six of the eight Southern states operating no-call lists update their registries on a quarterly basis, and two states, Kentucky and Tennessee, update theirs monthly. All states have some time lag between the registration date and the date on which telemarketers must comply with the resident’s request.

Advertising Campaign – Several state statutes require that telephone companies provide information to their customers regarding no-call lists and registration. Florida requires telephone service providers to place annual inserts in residential phone bills and/or place notice in local telephone directories informing consumers of the state’s no-call registry; Louisiana requires notices in phone bills at least once per quarter and their inclusion in telephone directories; Tennessee phone companies must provide notice in bills at least twice per year and directories; and Texas requires notification either through phone bills or phone directories.

Interacting With a National Registry – If the Federal Trade Commission establishes a national no-call registry, Louisiana, Missouri and Tennessee statutes require the state agency maintaining their no-call list to include the names and numbers of those registering for the national database on the state’s list. In amending its no-call law in 2002, Kentucky required the attorney general – the office responsible for maintaining the state’s list – to permit interface with any national registry established by the FTC for the purpose of including those registered on the state’s list on the national database.

Exemptions

In all Southern states with no-call registries, statutes stipulate certain groups or types of phone calls which are exempted from registry provisions. Some have referred to such exemptions as “loopholes.”¹⁵ All states exempt calls from telemarketers who have received permission to call, with whom the resident owes an existing debt or obligation, and with whom the resident has had a prior business relationship. Regarding the latter, there are some differences in defining what constitutes a current and prior business relationship:

- Arkansas exempts telemarketers, and their affiliates, with whom the resident has conducted business within the past 36 months;
- Oklahoma exempts groups with whom a resident has conducted business in the past 24 months;
- Tennessee allows a 12-month window;
- Louisiana and Texas limit this relationship to six months;
- Florida and Georgia exempt groups having any prior or existing business relationship;
- Kentucky not only exempts business with prior or current relationships, but also exempts calls regarding “the solicitation of maintenance or repair contracts regarding items previously purchased;” and
- Missouri statute exempts those with “established” business relationships.

All Southern states exempt charitable, religious or nonprofit groups, although Arkansas requires that the person calling on their behalf must be a volunteer (receiving no compensation); Louisiana does not exempt such calls if the person or organization calling is a professional solicitor; and Missouri and Tennessee require that the caller must be a member of the organization making the solicitation.

- Among other groups or calls exempted from Southern states’ no-call registries:
- Arkansas exempts newspapers whose calls regard advertising or sales; banks, whose calls are not related to credit card offers; motor vehicle dealers; insurance agents; real estate agents; funeral establishments; and investment brokers;
 - Florida exempts newspapers and those calling on behalf of political parties and candidates;
 - Georgia exempts political candidates and polling organizations;

- Louisiana statute exempts calls concerning marketing and public opinion research, and those constituting political activity – subsequent administrative regulations exempt calls from newspapers qualified to be an official journal of the state;
- Missouri exempts calls by or on behalf of any entity over which either a state or federal agency has regulatory authority;
- Oklahoma exempts those calling for the sole purpose of arranging a subsequent fact-to-face meeting between a salesperson and a customer;
- Tennessee exempts calls from companies not selling or engaging in telephone solicitation or making more than three calls in any one calendar week; and
- Texas exempts calls from organizations having a state license, provided that call is not made by an automated device.

In at least one state, the agency charged with maintaining the no-call list has added to the exempted groups, subsequently causing controversy between the agency and policymakers. When Louisiana legislators created the state's registry in 2001, they created a handful of exemptions to allow calls from nonprofit organizations, political candidates and others. However, when the state Public Service Commission (PSC) promulgated rules for carrying out the no-call registry, it added "newspapers or periodicals qualified to be an official journal of the state" to those exempted, arguing that newspapers' First Amendment responsibilities constituted political activity. Subsequent debate surfaced over whether the PSC had the authority to create its own exemptions.

In March 2002, the state attorney general weighed in, charging that the PSC had overstepped its bounds and stating "the commission not only exceeded its authority by making new law, but did so contrary to the express will of the Legislature. The Commission's power to regulate telemarketers is not constitutionally created but legislatively mandated." Jay Blossman, PSC Chairman, was not swayed, declaring "we're not going to change this just based on what the attorney general said." Blossman said that he would most likely ask the PSC to seek its own opinion from a state judge.¹⁶

Kentucky also witnessed heated debate arise over no-call exemptions. While the Commonwealth established a no-call list in

1988, some argued that the list contained too many exemptions, thus making the program ineffective at curbing most unsolicited telemarketing phone calls. The primary focus of the law was to prevent unsolicited phone calls from those engaged primarily in the business of conducting telephone solicitations. In 2002, the state's attorney general estimated that "unfortunately, over 95 percent of the business or nonprofit organizations which conduct telemarketing sales are exempt under the act and will not be required to honor the no-call list. In 2002, the General Assembly amended its no-call list, greatly reducing the number of telemarketers exempted.

Obtaining the List

States maintaining no-call registries also require telemarketers making telephone solicitations within the state to obtain and abide by the provisions of their list. Accordingly, telemarketers, unless they are exempted, must review state lists, honoring residents' requests not to receive telephone solicitations.

List Format – In all Southern states, no-call lists are available to telemarketers in electronic and/or paper format. Kentucky's list is searchable by area code, local exchange and individual number, and Missouri's and Florida's lists may be searched and ordered by area code.

List Price – Six of eight Southern states maintaining no-call registries charge telemarketers a fee to obtain the database. Fees vary significantly: Georgia charges telemarketers a \$10 annual fee to obtain its annual, statewide list; Texas charges an annual \$200 fee; Florida, \$400; Tennessee, \$500; Missouri, \$600; and Louisiana charges an annual \$800 fee for its statewide no-call list. In all of these states, statute requires that fees are to be used only to offset the costs of operating the no-call program. Arkansas and Kentucky make their no-call list available free to telemarketers upon request.

List Disclosure – Southern states charging telemarketers fees for obtaining lists explicitly forbid the registry's reproduction in any form for resale, in whole or in part. All Southern state no-call statutes, regardless of fees, prevent the list from being used for any purpose other than to comply with no-call requests. Some states even require telemarketers to sign confidentiality agreements to this effect. In addition, all state lists are shielded from "open records" laws, thus protecting

consumers' information from public inspection or disclosure.

Complaints and Penalties

All Southern states maintaining lists provide registrants with a means for registering complaints of no-call violations. States most often request that anyone registering a compliant obtain from the telemarketer the business's name on behalf of whom they are calling, time and date of the unsolicited call, caller's phone number, product or service offered, and the caller's name. Those registered for the no-call list may file a complaint:

- by phone in Missouri, Tennessee and Texas;
- online in Florida, Missouri, and Texas;
- by obtaining a form online, then submitting it by mail or fax in Arkansas, Florida, Louisiana, Missouri, Tennessee, and Texas; or
- by mailing or faxing a pre-printed form or written complaint in all eight Southern states.

Following an investigation of a complaint, all Southern states reserve the right to penalize telemarketers having violated provisions of their no-call list. As in other areas, the fines which may be assessed differ significantly. Telemarketers violating no-call provisions may be fined the following amounts:

- Arkansas and Florida – up to \$10,000 per violation;
- Kentucky and Missouri – up to \$5,000 per violation;
- Georgia and Tennessee – up to \$2,000 per violation;
- Louisiana – up to \$1,500 per violation for calling no-call registrants age 65 years or younger, and up to \$3,000 for calling consumers over age 65; and
- Texas – up to \$1,000 per violation, or up to \$3,000 per violation if it is found that the telemarketer willfully or knowingly violated the law.

No-Call Operating Costs and Administration

In all Southern states charging fees for registering for and obtaining no-call lists, statute and subsequent administrative regulations earmark these funds specifically for creating and maintaining the no-call lists. While it is sometimes difficult to gauge the overall costs of maintaining and enforcing no-call lists and whether program

fees, funds and penalties are appropriate to cover these expenses, officials in Arkansas, Florida, Missouri, and Tennessee replied to an SLC survey on operating costs and select administrative issues:

- While officials with the Arkansas Office of the Attorney General did not disclose how much it cost annually to maintain the state's no-call list, they commented that registration fees and fines from telemarketers were not sufficient to meet the list's maintenance cost. Two full-time employees update and maintain the no-call registry, containing 18,336 residential phone numbers. Since the list's enactment, a total of \$15,000 in fines has been collected from telemarketers violating no-call provisions.
- The Florida Department of Agriculture and Consumer Affairs estimated a cost of approximately \$800,000 annually to update and maintain the no-call list, containing 151,386 residential phone numbers. The cost of meeting the salaries of the eight full-time employees maintaining the list is met by program funds and fines. As of April 1, 2002, the Department had collected a total of \$618,000 in fines from telemarketers since the list's enactment.
- The Missouri Attorney General's Office approximates their cost at \$400,000 annually to operate its no-call list, which contains 908,301 residential phone numbers. This cost includes initial start-up and equipment costs, and the salaries of the three full-time employees required to staff the program. Fines and registration fees from telemarketers appropriately cover the cost of maintaining the list. The estimated \$200,000 annual cost for attorneys' fees for enforcement is extra, officials noted. Fines collected from violators support these salaries. As of April 1, 2002, Missouri had collected \$552,500 in fines.
- Officials with the Tennessee Regulatory Authority stated it cost \$331,457 to maintain its list containing 705,895 residential phone numbers in the year ending June 30, 2001. Fines and telemarketer fees sufficiently cover the cost of maintaining the list and the salaries of the two part-time employees overseeing it. As of April 1, 2002, the state had collected a total of \$73,000 in fines from violating telemarketers.

SLC State-by-State Statutes and Regulations

A Southern state-by-state review of no-call lists enacted by April 2002 in Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Tennessee and Texas follows. While Oklahoma's 2002 no-call law is highlighted, many regulations have yet to be promulgated, thus prohibiting a more thorough summary. Information for the report is from state statute and administrative regulations governing these lists. Supplemental information came from various newspaper articles and state no-call Web sites. All eight states maintaining no-call lists were asked to review their respective sections for accuracy and to provide information in the areas of program cost and administration. When supplied, this additional information is included. For additional information on each state's program, please visit their Web sites, for which links have been provided.



Arkansas No-Call Law and Regulations

The Arkansas General Assembly passed the Consumer Telephone Privacy Act in 1999 (Subchapter 4-99-401 through 4-99-408), creating a no-call registry maintained by the Office of the Attorney General. Effective January 1, 2000, this law, along with subsequent regulations, allows Arkansans to place their names and phone numbers in a statewide database to avoid being contacted by telemarketers, with some exceptions. The state's no-call list is limited to residential phone numbers.

Statute also forbids telemarketers from blocking their identities on consumer caller identification (caller ID) systems. It also is illegal for telemarketers to use an automated system for the selection and dialing of telephone numbers and the playing of recorded messages "for the purpose of offering any goods or services for sale, or for conveying information regarding any goods or services for the purpose of soliciting the sale or purchase thereof, or for soliciting information, gathering data or for any other purpose in connection with a political campaign." Exceptions apply to automated dialing and messages regarding preexisting business relationships and when information has been requested by the recipient.

Registration

Persons wishing to register their residential phone number on the no-call list, which is updated quarterly, must pay an initial \$5 fee per telephone number. The \$5 fee is valid for one year and must be paid annually in order to renew each phone number's listing. Payments may be made by check or money order and mailed, along with a no-call list request, to the Office of the Attorney General. Residents also may call the attorney general's office to register. Applications are available on the Internet, but may not be submitted online.

Exemptions

The following groups are exempted from the provisions of Arkansas' no-call list: those who have received prior written permission to call residents; businesses, and their affiliates, with which the resident has had a business relationship in the past 36 months; those calling regarding an outstanding debt or obligation; volunteers (those receiving no compensation) calling on behalf of a charitable organization; newspapers regarding advertising or sales; banks, whose calls are not related to credit card offers; and motor vehicle dealers, insurance agents, real estate agents, funeral establishments and investment brokers regarding the sale of their products and services.

Obtaining the List

Statute requires all telemarketers making residential telephone solicitations to obtain a current no-call database. This list (in computer disk, hardcopy or electronic mail attachment format) may be requested by completing an order form from the attorney general's office. Telemarketers can obtain the list free of charge.

Complaints and Penalties

To register a complaint regarding no-call telemarketing violations, a complaint form must be obtained from the attorney general's Web site, completed, and submitted by mail or facsimile transmission. These forms also are mailed to residents upon their request. Violators of a no-call request are charged with a Class A misdemeanor, punishable by up to a \$10,000 fine per violation. All funds derived from these fines are deposited in the state treasury's State Central Services Fund, and are used exclusively to defray the cost of creating, maintaining and enforcing the no-call list.

Facts and Figures

As of April 2002:

- a total of 18,336 Arkansas residents had registered for the state's no-call list;
- officials with the attorney general's office commented that fines and registration fees do not generate enough revenue to appropriately fund associated costs;
- two full-time positions are required to maintain the list; and
- a total of \$15,000 in violation fines has been collected from telemarketers since the law's enactment.

To learn more about the Arkansas Do Not Call program, visit: <http://www.donotcall.org/>.

Florida No-Call Law and Regulations

Florida's No Sales Solicitation Calls list (Section 501.059) was first enacted in 1987 and amended in 1990. This law enables consumers to register their residential, mobile and pager phone numbers with a registry maintained by the Department of Agriculture and Consumer Services. Inclusion on this list forbids telemarketers, with some exceptions, from calling. Business phone numbers are not included on the list.

The law also requires telemarketers to identify themselves by their first and last names and the business for which they are soliciting immediately upon making contact, and has provisions governing contracts made pursuant to telephone sales calls. While telemarketers may not use automated dialing systems with recorded messages, they may use automated dialing systems with live messages in response to a call initiated by the person to whom the message is directed, or if the call relates to goods or services previously ordered or purchased.

Registration

Florida residents may register their residential, mobile, and pager phone numbers on the no-call list by paying an initial \$10 listing charge per number. The registry is valid for one year. Residents pay an annual \$5 fee, per number, to renew their listing. To register, residents can call a toll-free number or download an application from the Internet for completion and mailing. The list is updated quarterly.

Statute requires telecommunications companies to inform their customers of the provisions of the no-call list through annual inserts in billing statements mailed to consumers and/or conspicuous publication of the notice in the consumer information pages of local telephone directories.

Exemptions

Exempted from the no-call list's provisions are: businesses that received the request or permission of the person called; businesses with a prior or existing business relationship with the consumer; realtors calling in response to a yard sign or other form of advertisement placed by a seller or lessor; calls in connection with an existing debt or contract, the payment or performance of which has not been completed at the time of the call; those soliciting donations for a charitable organization; those calling on behalf of political candidates and parties; or calls in behalf of a newspaper.

Obtaining the List

The no-call list is available to telemarketers for a fee of \$30 per area code, per quarter, or \$100 for all of Florida's current 16 area codes per quarter. It is available via e-mail in ASCII format and in printed text.

Complaints and Penalties

To register a complaint of a telemarketer violating the no-call list, consumers can complete and mail preprinted postcards provided at the time of subscribing to the listing. Complaints may also be registered online.

Violators of the no-call list may be fined up to a maximum of \$10,000 per violation and are subject to injunctive relief through the courts. If litigation results from a violation of this law, the non-prevailing party is required to pay the prevailing party's court and legal fees. All fines collected are deposited in the Department's General Inspection Trust Fund and are used solely for maintaining the no-call list.



Facts and Figures

As of April 2002:

- a total of 151,386 Florida residents had registered for the state's no-call list;
- it costs approximately \$800,000 annually to update and maintain the list;
- eight full-time positions are required to operate the list;
- a total of \$618,850 in fines has been collected from telemarketers since the list's establishment; and
- approximately 1,000 businesses have purchased the list annually.

To learn more about Florida's No Sales Solicitation Calls program, visit: <http://www.800helpfla.com>.



Georgia No-Call Law and Regulations

In 1998 the Georgia General Assembly passed House Bill 71 (Section 46-5-27(d)(3)), establishing the state's No-Call List within the state Public Service Commission (PSC). Effective January 1, 1999, this law and subsequent regulations promulgated by the PSC prohibits telemarketers, with some exceptions, from calling households registered on the list. Business and cell phone numbers may not be included on the list unless a person's home office phone is a residential line.

The law does not prevent faxes from telemarketers, as it is specifically limited to voice communications. Phone calls from automatic dialing and announcement devices are covered by the list as well, as long as those calls are not made from an exempted group.

Statute also requires telemarketers to state at the beginning of the call the identity of the person or entity initiating the call and prohibits the blocking of a residential subscriber's use of a caller identification service.

Registration

To register, residents must pay \$5 per phone number every two years. Residents may register with the PSC by calling a toll-free number and providing credit card information; registering over the Internet with a credit card; or submitting their completed application, along with a check, by mail. Application forms are available by mail and from the Internet. A resident's phone number will appear on the no-call list, which is updated quarterly, approximately 60 to 90 days following their registration. Reminders are mailed to all residents on the list prior to their registration's expiration date.

Exemptions

The following groups are exempted from provisions of the no-call registry: companies with which a resident has a current or prior business relationship; organizations that have received prior express invitation or permission to call; political candidates or polling organizations; and recognized charities or religious organizations.

Obtaining the List

Telemarketers can obtain the no-call list by Internet, phone or mail by paying an annual \$10 fee. The list includes the phone numbers of those who have registered, their city of residence, zip code, and the registration date. Registrants' names and address will not be provided. Telemarketers are required to update the list quarterly. Reproduction of the list in any form for resale in whole or in part is forbidden. Georgia's no-call list is not subject to open records requests, and statute prevents the list from being used for any other purposes.

Complaints and Penalties

To register a complaint of telemarketing violations, residents must contact the Governor's Office of Consumer Affairs, which is responsible for enforcing the registry. The Office provides a toll-free number for this purpose, where one can get the information for mailing or faxing a complaint. Reporting no-call violations is not possible via the Internet. Telemarketers violating the law may be subject to a maximum \$2,000 fine per call.

To learn more about the Georgia No Call program, visit: <https://www.ganocall.com/>.

Kentucky

No-Call Law and Regulations

In 1998, Kentucky passed Senate Bill 199, amending state Revised Statute (Chapter 367.46951) and creating the Commonwealth's telemarketing no-call list. The list became effective July 1 of that year. In subsequent years, however, concerns were raised that the law was ineffective because the list exempted most businesses from its provisions, and focused only on preventing unsolicited phone calls from those engaged primarily in the business of conducting telephone solicitations.¹⁷



In 2002, following contentious political debate, the General Assembly passed House Bill 47, expanding the scope of telemarketers covered by the state's no-call list. Effective July 2002, this new "zero call" list will prohibit telemarketers, with few exceptions, from making telephone solicitations to consumers on the registry. The no-call list is maintained by the Office of the Attorney General, Consumer Protection Division. The following information refers to the amended no-call registry.

The no-call list applies to unsolicited telephone calls or facsimile transmissions to a residential, mobile or paging device phone number, including calls made by automatic dialing or recorded message devices. It does not apply to business-to-business calls.

Registration

Residents are not charged a fee to be placed on the list. Registration is available via the Internet; by signing a written authorization and mailing it to the Attorney General's Office; downloading an application from the Internet for mailing; requesting an application by mail from the Consumer Protection Division; or requesting an application by e-mail. A number will be included on the list on the first business day of the month following the date on which the attorney general receives the request. A registrant's number will remain on the list until a written request is made for removal or upon notice that the number is no longer held in the name of the applicant. Any information the list contains shall be used only for the purpose of implementing the no-call program.

Exemptions

No-call list provisions do not apply to: telephone calls made from charitable organizations soliciting only donations; calls in connection with the payment or performance of an existing debt or contract, the payment of which has not been completed at the time of the call; and calls from telemarketers with whom the person has a prior or existing business relationship, including, but not limited to, the solicitation of maintenance or repair contracts regarding items previously purchased from the person making the solicitation. Also exempted are calls made with the express permission of the consumer; by a telemarketer located in Kentucky to a location outside of the state; or by a business to another business.

Obtaining the List

Kentucky's no-call list is published and distributed on a quarterly basis in both electronic and hardcopy format. It is available free of charge to any "merchant or telemarketing company that is required to consult the list." The attorney general is required to make available the electronic version of the list in a format which is searchable by area code, local exchange and individual number.

Complaints and Penalties

Persons on the zero-call list who receive calls from non-exempt telemarketers may contact the Consumer Protection Division at a toll-free number to receive a complaint form. No-call violators may be fined up to \$5,000 per violation for the first two offenses. Additional violations within a calendar year will constitute a felony offense and may be punished by a prison sentence of one to five years.

To learn more about Kentucky's No Call program, visit: <http://www.law.state.ky.us/cp/nocall.htm>.



Louisiana No-Call Law and Regulations

In 2001, Louisiana lawmakers passed the Do Not Call Telephone Solicitation Relief Act (Sections 45:844.11 through 45:844.15) directing the state Public Service Commission to promulgate regulations to create and maintain the Do Not Call Register. The list became effective on January 1, 2002, and allows persons to register their residential phone number to prevent telemarketers, with some exceptions, from contacting them. Business phone numbers are ineligible for the list.

By statute, telemarketers also are forbidden from calling on Sunday or legal holidays and from between 8:00 p.m. and 8:00 a.m. Consent must be given by the called party prior to the initiation of any recorded-message calls. Immediately after a called person answers the phone and at the conclusion of each solicitation, the name, phone number and the firm making or sponsoring the call must clearly be stated. Telemarketers are forbidden from calling numbers in random or sequential fashion and from using equipment to block or otherwise interfere with caller identification functions of residential telephone subscriber. Telemarketers must maintain a log of each solicitation which includes the time, number and date of each call.

Registration

Residents can register for the no-call list by calling the Public Service Commission at a toll-free number, by mail, or via an online registration form. There is no charge to register a residential phone number, and a number will remain on the list for five years. Only a registrant's phone number and zip code appear on the list, which is updated quarterly. Phone number registration can be checked on the program's Web site.

Telecommunication service providers are required to notify their customers of the no-call list and provide information at least once per quarter on how residents may register. Telephone directories also must include a "conspicuous" notice to this effect.

If the Federal Trade Commission establishes a nationwide no-call registry, the Louisiana Public Service Commission is directed by statute to include those on the state's no-call list on the national registry.

Exemptions

The following calls/groups are exempted from abiding by no-call list provisions: calls in response to an express request of the person called; calls in connection with an existing debt or contract, the payment or performance of which has not been completed at the time of the call; persons with whom the telemarketer has an existing business relationship, or a prior business relationship that was terminated or has lapsed within six months of the call; calls on behalf of a nonprofit organization, unless that organization uses a professional solicitor to call; calls for the purpose of conducting marketing research, public opinion polling or similar activities not involving solicitation or selling; calls constituting political activity, including any from a parish, municipality school board or other political subdivision; and calls made by newspapers or periodicals qualified to be an official journal of the state.

Obtaining the List

Telemarketers doing business in the state are required to obtain a copy of the no-call list, the price of which "shall not exceed the costs incurred in its presentation, production, and distribution of the list." Currently, telemarketers must pay an annual \$800 fee to obtain the no-call list, which must be updated quarterly through e-mails or CD-ROMs delivered by the Public Service Commission. The information contained in the database is not open to public inspection or disclosure.

Complaints and Penalties

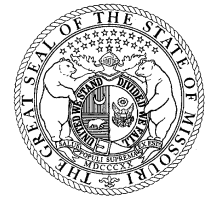
Consumer complaints must be submitted in writing to the Public Service Commission. Complaint forms are provided by the Commission and are available on its Web site. Telemarketers violating the provisions of the no-call list may be fined up to \$1,500 per violation. If the violation is committed against a resident over the age of 65, the telemarketer may be fined up to \$3,000 per violation. All fines are paid to the Public Service Commission and may be used only for the administration of the no-call list.

To learn more about Louisiana's Do Not Call Program, visit: <http://host.ntg.com/donotcall/>.

Missouri

No-Call Law and Regulations

Passed during the Missouri General Assembly's 2000 session, Senate Bill 763 (enacting 19 new sections under State Revised Code, Chapter 407) established the state's No Call program within the Office of the Attorney General. The no-call list became effective July 1, 2001, allowing residents to reduce unwanted telemarketing calls. Business phone numbers are not eligible.



Statute also requires telemarketers to disclose to all persons, "promptly and in a clear and conspicuous manner," that the purpose of the telephone call is to make a sale; their identifiable name and the seller on whose behalf the solicitation is being made; and the nature of the merchandise or investment opportunity being offered. If a telemarketer's call is in the form of a prerecorded communication, that message must, at the beginning of the call, inform the consumer that it is a recording. Telemarketers are forbidden from calling all residences between the hours of 8:00 p.m. and 9:00 a.m., and may not utilize any method to block or otherwise circumvent the use of a caller identification system.

Several measures to reduce exemptions or make other revisions to the 2000 no-call legislation were considered during the General Assembly's 2002 regular session. All were unsuccessful.

Registration

Residents may register, free of charge, for the no-call list online, by a toll-free phone call, or by submitting to the attorney general's office a completed no-call form. The list is updated quarterly and, while a person's phone number remains on the list for two years, renewal is automatic, indefinitely, unless the resident requests in writing to have their number removed from the list. Subscribers who change phone numbers must register the new number with the attorney general's office.

If the Federal Trade Commission establishes a nationwide no-call registry, the attorney general is directed by statute to include state residents registered for the national database on Missouri's no-call registry.

Exemptions

Telemarketing solicitations exempted from no-call provisions are: calls or messages to a consumer who has given their prior expressed invitation or permission; solicitors with whom the customer has an established business relationship; those calling in behalf of any entity over which either a state or federal agency has regulatory authority; calls from certain nonprofit groups, as long as the caller is a member of the group; and calls between a telemarketer and any business, except calls involving the retail sale of nondurable office and cleaning supplies.

Obtaining the List

The no-call list is updated quarterly and can be obtained by telemarketers for a fee of \$25 per quarter for each Missouri area code. Currently, the state comprises six area codes, thus telemarketers must pay \$600 annually to keep their state-wide no-call database current. Lists also can be requested by area code. The attorney general may include only a registered consumer's phone number on the list and may maintain the no-call database in either written or electronic format. Telemarketers must sign a confidentiality agreement that restricts use of the no-call database exclusively for the purpose of compliance with this law, prohibiting the transfer of the database. Information contained in the registry is not considered as a public record.

Complaints and Penalties

The Office of the Attorney General accepts complaints of no-call violations by phone, mail or electronic means. Telemarketers who violate the no-call list may be punished with an injunction, a fine of up to \$5,000 for each violation and by additional relief in any court of competent jurisdiction. The attorney general may use this revenue to carry out the functions of the no-call law. Persons on the no-call list receiving more than one telephone solicitation within a year's period by the same violating telemarketer may bring an action to enjoin such violation and/or bring an action to receive up to \$5,000 in damages for each violation.

Facts and Figures

As of April 2002:

- a total of 908,301 residents had registered for the state's no-call list;
- approximately \$400,000 is required to annually to update and maintain the list;
- three full-time positions are required to administer the list; and
- a total of \$552,500 in violation fines have been collected from telemarketers since the list's enactment.

To learn more about Missouri's No Call program, visit: <http://www.ago.state.mo.us/nocalllaw>.



Oklahoma

No-Call Law and Regulations

On April 10, 2002, the Oklahoma Legislature passed Senate Bill 950, the Telemarketer Restriction Act. Signed into law, the Act requires the attorney general to establish the No-Telemarketing-Sales-Call registry, thereafter maintaining the no-call list. The attorney general may, however, contract with a private vendor to establish and maintain the registry. The list must be effective by July 1, 2002, and ready for operation by January 1, 2003.

Registration

While statute requires the attorney general to establish a toll-free telephone number for those interested in registering for the no-call list, "any other manner" of registration may be established. The name and number of a consumer can be removed from the registry either by the consumer calling a toll-free number or upon written request by the consumer. The no-call list must be updated at least once per quarter. Telemarketers are forbidden from calling residents whose number has been registered for the no-call list for 30 days. The attorney general is to publicize notice to consumers regarding the no-call list.

Exemptions

By statute, the following groups are exempted from provisions of the state's no-call list: those soliciting funds or other support for a charitable or religious activity, political candidate, cause or organization, or any activity of a nonprofit entity; those with an established business relationship with the consumer or having had one within the preceding 24 months; and those calling for the sole purpose of arranging a subsequent face-to-face meeting between a salesperson and the consumer.

Obtaining the List

The attorney general is to make the registry available to telemarketers by such means and for such fees as he determines.

Complaints and Penalties

The complaint registration process has yet to be determined. A telemarketer's first violation will be a misdemeanor, punishable by up to a \$500 fine. Second and subsequent offenses would be felonies, punishable by up to a \$5,000 fine per violation. All fines will be deposited in the office's Telemarketer Revolving Fund, and may be budgeted and expended for the purpose of implementing, administering or enforcing the provisions of the no-call list.

Tennessee

No-Call Law and Regulations

The Tennessee Do Not Call Telephone Sales Solicitation law (State Code Section 65-4-401) was passed during the General Assembly's 1999 regular legislative session, directing the Tennessee Regulatory Authority to promulgate regulations to compile and maintain a no-call registry by July 1, 2000. The registry consists of residential phone numbers of subscribers who wish to reduce telemarketing solicitations, with some exceptions, and is maintained by the Authority's Consumer Services Division. Business phone numbers, including those of residential lines operating a home business, are not covered by the list.

Telemarketers are forbidden from calling any residence between the hours of 8:00 p.m. and 9:00 a.m.; required to maintain a list of persons who do not wish to be called; required to identify the person making the call and the entity they represent at the beginning of each call; and, if calling by means of a recorded message, are required to clearly state the name and telephone



number of the telemarketer at the beginning and ending of each message. The number given by the solicitor must be answered by a person who is willing and able to provide information concerning the automated call. All telemarketers calling in person are required to provide a return number also. Telemarketers are forbidden from using equipment to block or interfere with caller identification systems.

Registration

There is no fee for residential telephone subscribers to register for the no-call list, which can be done online, by mail, or by phone. To be placed on the list, residents must provide their name, address and phone number. This information is not open to public inspection or disclosure. The no-call list is updated monthly. Enrollment becomes effective 60 days following the first day of the succeeding month of the subscriber's registration. A resident's enrollment is valid for five years, or until notification is given in writing to remove their name from the list. The Authority's Web site allows residents to verify their registration status.

Local telephone exchange companies are required to notify their residential subscribers at least twice each year on how to enroll for the no-call list through notices accompanying telephone bills. Companies must also place information in their white pages informing residential subscribers how to be included on the list.

The Authority shall include in its no-call registry the list of Tennessee subscribers to any federal agency's national no-call database if and when such a list is established.

Exemptions

The following groups are exempted from provisions of the state's no-call list: those calling in response to an express invitation or permission by the consumer; those having a current or previous business relationship with the consumer within the previous 12 months; those calling on behalf of a nonprofit organization, as long as the caller is a bona fide member of the exempt organization; and those not selling or engaging in a telephone solicitation or making more than three calls in a calendar week.

Obtaining the List

Non-exempted telemarketers doing business in the state must pay an annual \$500 registration fee by May 1 of each year, allowing them unlimited access to the no-call list via the Internet or other electronic means. Hardcopy lists are available for a small additional printing fee. Telemarketers who elect to register as a principal solicitor are required to pay a group registration fee of \$1,000 and an additional \$50 registration fee for each independent solicitor. Distributed lists, which are updated monthly, contain only the residential phone numbers of registrants, and the information is not open to public inspection or disclosure.

Complaints and Penalties

Telemarketers may not knowingly make a call to any number listed on the no-call list which was in effect 60 days prior to the time of the telephone solicitation. Residents on the list may make a complaint to the Authority by calling a toll-free number or by submitting a complaint form, available via the Internet or by mail. After receipt of a complaint, telemarketers must file a written response with the Authority within 10 days. Violators may be fined up to \$2,000 per violation, with all collected fines dedicated to the State Public Utility Account.

Facts and Figures

As of April 2002:

- a total of 705,895 Tennessee residents had registered for the state's no-call list;
- the list cost \$331,457 to maintain in the year ending June 30, 2001; since taking effect on July 1, 2000, the list has cost a total of \$630,154 to update and maintain;
- two employees dedicated approximately 50 percent of their time to administer the list;
- a total of \$73,000 in fines had been collected from telemarketers since the list took effect;
- officials note that fines and fees from selling the list are adequate to cover the annual cost of maintaining the list.

To learn more about Tennessee's Solicitor Do Not Call Program, visit: <http://2.state.tn.us/tra/nocall.htm>.



Texas

No-Call Law and Regulations

Texas maintains two no-call lists. Restructuring the state's retail electric market, Senate Bill 7, passed in 1999, established the state's Electric No Call List, operated and maintained by the Public Utility Commission (PUC). House Bill 472, passed in 2001, created the state's Telemarketing Disclosure and Privacy Act, directing the PUC to promulgate rules for implementing and maintaining a no-call list. Both laws took effect January 1, 2002; the former prevents calls only from retail electric providers and other telemarketers calling about residential electrical service, and the latter applies to any telemarketer calling residential phone numbers. Both allow registrants to identify themselves as someone who does not want to receive unsolicited telemarketing calls. All telemarketers, whether calling from within or outside the state, must abide by the lists.

By statute, telemarketers are forbidden from using equipment which will interfere with caller identification systems. The law also sets numerous regulations governing sender information which is required to be included in telemarketing facsimile transmissions, and establishes guidelines if a fax recipient requests that the telemarketer not send further transmissions.

Registration

Residents pay a \$2.25 fee to register each home phone number on the statewide no-call list, which is valid for three years. Residents and businesses registering for the electric no-call list pay a \$2.55 fee, valid for five years. Residents can pay a \$4.80 fee to have their home phone numbers placed on both lists for a period of five years. Registration can be completed via the Internet, or by mail through completing a no-call form. Forms can be printed from the Internet site, or obtained through submitting a request by mail or phone. Registration(s) status can be checked online or by a toll-free telephone call. Names or businesses can also be removed from either list upon request.

Private for-profit publishers of residential phone directories must include a notice of the availability of the no-call list, providing information on how residents may apply. Local exchange telephone companies must inform their customers of the program through either notices in phone bills or telephone directories.

Exemptions

Groups exempted from the provisions of the general no-call lists are: those with whom the resident has had an established business relationship within the past 12 months; those with whom the resident has requested contact; those collecting debt; those calling on behalf of a nonprofit organization or charity; and those having a state license, provided that call is not made by an automated device, the solicited transaction is not completed without a face-to-face transaction and the consumer has not previously requested to not be called by that state-licensed telemarketer. By statute, however, exempted telemarketers (with the exception of debt collectors or charities) may not call back if a customer makes this request.

Obtaining the List

Both no-call lists were made available April 1, 2002, with telemarketers required to obtain them and be in compliance by July 1, 2002 – or 60 days after a phone number appears on each list. Lists are available for download from the Internet, by CD-ROM, or by hardcopy. Lists are updated quarterly, with telemarketers required to update their database accordingly. Telemarketers may obtain the statewide no-call list for \$45 per quarter and the electric no-call list for \$50 per quarter. Geographically-exclusive lists of either are available for \$50 per quarter. Telemarketers are not allowed to sell or otherwise transfer the list to any other person or entity for any use and may not use the information on the list for any reason other than to comply with each no-call law.

Complaints and Penalties

Complaints of no-call violations are directed to the Customer Protection Division of the PUC, and can be submitted by phone, online or by mailing in a complaint form, which is available on the Internet. Telemarketers violating the lists' provisions are guilty of a Class C misdemeanor and may be subject to administrative and civil penalties, including a fine of up to \$1,000 per violation. The attorney general may investigate violations and, if the court finds telemarketers willfully or knowingly violated this law, violators may be subject to civil penalties of up to \$3,000. State agencies having licensed a violating telemarketer may assess an administrative penalty not to exceed \$1,000. Consumers subjected to a violation also have a private right of action in civil court.

To learn more about Texas' No Call Lists program, please visit: <http://www.texasnocall.com>.

Case Studies and Conclusion

While some continue to see no-call lists as an unnecessary government intrusion into the marketplace, their increasing popularity with the public suggests strong acceptance of state-implemented programs. According to Susan Grant, of the National Consumer League, “consumers are sending a strong signal that they don’t want telemarketer calls.”¹⁸

Missouri officials found out quickly the popularity of no-call lists. When the Legislature debated a do-not-call measure in 2001, officials estimated that up to 200,000 households would sign up for the service. The bill was signed into law, becoming effective in July of that year and, within just three months of its implementation, more than 814,000 households (about 33 percent of the state’s total) had registered.¹⁹ By March 2002, the list had grown to include 908,301 residential numbers.²⁰ According to Scott Holste, a spokesman for the Missouri attorney general, the list has “far exceeded expectations,” and “taken on a life of its own.”²¹

Violations of Missouri’s no-call list also added up quickly. By December of 2001, Attorney General Jay Nixon’s office had fined more than 54 telemarketers in violation of the list, collecting a total of more than \$450,000 in fines.²² By April 2002, Nixon had collected more than \$552,500 in fines.

Texans could register for their state’s no-call list on January 1, 2002. Within six days, more than 76,000 residents had signed up for the list by phone or Internet. Another 18,000 applications had been received by mail.²³ By Wednesday, March 27, the deadline for signing up for the initial no-call list, 340,000 residents had registered. The state was so inundated with requests that, on March 26, traffic actually shut down the registry’s Web site due to an overburdened credit card verification system. Twenty thousand residents registered for the list on that date – a one-day record.²⁴

In testimony before the Kentucky Senate Judiciary Committee, Missouri Attorney General Jay Nixon warned that as more states place restrictions on telephone marketing, the industry will turn more attention to those states failing to enact stricter regulations.²⁵ Kentucky approved the no-call amendments in 2002, making its registry one of the more restrictive in the region. According to the Commonwealth’s attorney general, whereas only 135,000 residents had registered their

phone numbers for the state’s existing no-call list prior to the 2002 amendments, within three weeks of adopting stricter telemarketing restrictions, the number of registrants on the Commonwealth’s list had nearly tripled, expanding to 313,000 residential phone numbers.²⁶

To many telemarketing-industry officials, the popularity of no-call lists indicates a future of financial hardship. Notes Scott Frey, president of *possibleNow.com*, an organization which helps businesses comply with no-call lists, “some 600,000 people in Kentucky are on the no-call list. That kills the economy and hurts people who have telemarketing jobs.”²⁷ While many in the telemarketing industry may have accepted the popularity and inevitability of no-call lists, most would like to see one national standard rather than a collection of differing state, and perhaps federal, no-call registries through which to navigate their consumer outreach operations.

As for the proposed national registry, on April 12, 2002, attorneys general in all 50 states voiced opposition to its creation, saying any FTC proposal should not preempt existing state laws. According to Jay Nixon, “we welcome the FTC as an ally in helping us protect consumers. We want to ensure, however, that federal actions support and supplement, not undermine, what we are doing.”²⁸

Nationally, as of April 2002, 26 states had enacted no-call programs, and many more had considered such measures. Gauging by the number of such proposals, enacted laws and the number of those already registered, no-call lists have proven popular both among the public and policymakers. **RR**

Notes

- ¹ Legislative Findings and Intent. Arkansas Act 1465: Consumer Telephone Privacy Act.
- ² Frank Geary, "Legislature Urged to Ban Unwanted Telemarketers," Las Vegas Review-Journal, Las Vegas, Nevada, March 20, 2002.
- ³ American Association of Retired Persons Web site: Facts About Fraudulent Telemarketing, <http://www.aarp.org/fraud/1fraud.htm>, accessed March 29, 2002.
- ⁴ Jack Brammer, "Telemarketing Plan Unveiled by Democrats: Senators are Pre-Filing Legislation to Limit Calls, Especially to Seniors," Herald-Leader, Lexington, Kentucky, November 30, 2001.
- ⁵ Jack Elliot, "Lawmakers Push for Do-not-call Phone List," The Clarion Ledger, Jackson, Mississippi, January 31, 2002.
- ⁶ Carl Redman, "Telemarketers Request 'Do-Not-Call' Law Delay," The Advocate, Baton Rouge, Louisiana, September 28, 2001.
- ⁷ Robbie Sherwood, "No-Call Bill Nears Senate Vote," The Arizona Republic, Phoenix, Arizona, March 28, 2002.
- ⁸ The TSR (16 CFR Part 310) prohibits specific deceptive and abuse telemarketing acts or practices; requires telemarketers to make specific disclosures of material information; prohibits misrepresentations; limits the hours that telemarketers may call consumers; prohibits calls to a consumer who has asked not to be called again; and sets payment restrictions for the sale of certain goods and services.
- ⁹ Federal Trade Commission Web site: FTC Proposes National "Do Not Call" Registry, <http://www.ftc.gov/opa/2002/01/donotcall.htm>, accessed February 7, 2002.
- ¹⁰ Charles Wolfe, "House Passes Bill to Limit Telemarketing; State Would Maintain 'Zero Call' List," Herald-Leader, Lexington, Kentucky, January 23, 2002.
- ¹¹ Brammer.
- ¹² *Ibid.*
- ¹³ Direct Marketing Association Web site: <http://www.the-dma.org/aboutdma/whatisthedma.shtml>, accessed April 4, 2002.
- ¹⁴ Automated calling equipment is any device used to select or dial telephone numbers and deliver recorded messages without the use of a live operator.
- ¹⁵ Seth Stern, "Will Feds Tackle Telemarketers," The Christian Science Monitor, April 15, 2002.
- ¹⁶ Steven Ritea, "PSC Criticized for Exempting Newspapers from 'Don't Call' Law," Times-Picayune, New Orleans, Louisiana, March 29, 2002.
- ¹⁷ Kentucky's 1998 no-call list exempted the following groups: those calling in response to an express request of a person called, unless the request was made during a prior telephone solicitation; primarily in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not yet been completed; those with whom a resident has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made; an accredited college or university; tax-exempt organization; school regulated by the Kentucky Department of Education; licensed real estate broker or sales associate; insurance agent; registered investment broker-dealer, agent or investment adviser; licensed insurance agent solicitor or consultant; employment agency; person soliciting the sale of a subscription to a newspaper, magazine or periodical of general circulation or a cable television service; a merchant, or their affiliate, who is regulated by the Public Service Commission; marketer soliciting the sale of food costing less than \$100 to each address; person who periodically issues and delivers catalogs to potential purchasers if the catalog includes a written description or illustration and the sales price of each item offered for sale, includes at least 24 full pages of written material or illustrations, is distributed in more than one state, and has an annual circulation of not less than 250,000 customers; telemarketer located in Kentucky calling to a location outside of Kentucky; business regulated by the Department of Financial Institutions; merchant under the regulation of the Federal Trade Commission; book, video or record clubs which sell on a contractual basis; merchant which has operated for at least two years in the state and which offers consumer goods; or merchants which are publicly-traded corporations.
- ¹⁸ Stern.
- ¹⁹ Anna Nichols. "H&R Block Gets Fined for No-Call Violations," Digital Missourian, <http://www.digmo.org>, Accessed September 27, 2001.
- ²⁰ Jay Nixon, Missouri Attorney General, response to SLC no-call survey, Missouri Attorney General, Jefferson City, Missouri, April 5, 2002.

- ²¹ Steven Walters, "Missouri Shows Success Taking on Telemarketers," Milwaukee Journal Sentinel, Milwaukee, Wisconsin, August 23, 2001.
- ²² "Nixon Criticizes Report Leaving Loopholes in No-Call Law," News Tribune, Jefferson City, Missouri, December 14, 2001.
- ²³ Reuters News Service, "Texans Sign Up in Drove to Block Telemarketers," Houston Chronicle, Houston, Texas, January 8, 2002.
- ²⁴ Victor Godinez, "Today's The Deadline for Blocking Telemarketing Calls," Dallas Morning News, Dallas, Texas, March 27, 2002.
- ²⁵ Bruce Schreiner, "Kentucky Urged to Curb Soliciting by Phone," Herald-Leader, Lexington, Kentucky, February 14, 2002.
- ²⁶ Cindy Schroeder, "Residents Build 'No-Call' List: New Telemarketing Law to Limit Solicitations," The Cincinnati Enquirer, Cincinnati, Ohio, March 27, 2002.
- ²⁷ Stern.
- ²⁸ Paul Sloca, "State Attorneys General Oppose Federal No-Call List," News Tribune, Jefferson City, Missouri, April 13, 2002.

This Regional Resource was prepared for the membership of the Southern Legislative Conference (SLC) by Todd Edwards, SLC Regional Representative.

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