

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

851H0581

SENATE BILL NO. 119

Introduced by: Senators McCracken, Brown (Arnold), Olson (Ed), Sutton (Dan), and Symens
and Representatives Konold, Davis, Flowers, Rhoden, Solum, and Teupel

1 FOR AN ACT ENTITLED, An Act to provide for the establishment of a no telephone
2 solicitation contact list.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 37-30 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any residential, mobile, or telephonic paging device telephone subscriber desiring to be
7 placed on a no telephone solicitation contact list, indicating that the subscriber does not wish to
8 receive telephone solicitations, may be placed upon such list by notifying the Public Utilities
9 Commission in writing and paying the commission an initial list fee. The initial list fee is ten
10 dollars. The subscriber's notice shall be in a form approved by the commission.

11 Section 2. That chapter 37-30 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The subscriber's listing shall be for a period of three years. If a subscriber requests renewal
14 and pays a renewal list fee the Public Utilities Commission shall renew the listing for an
15 additional three-year period. The renewal list fee is five dollars.



1 Section 3. That chapter 37-30 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The first no telephone solicitation contact list shall be published on or before June 30, 2003.
4 The Public Utilities Commission shall thereafter update the list quarterly and provide this list to
5 telephone solicitors upon request and receipt of a list distribution fee. The list distribution fee is
6 twenty-five dollars per list.

7 Section 4. That chapter 37-30 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Any fee collected pursuant to this Act shall be deposited in the state general fund.

10 Section 5. That chapter 37-30 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Within thirty days after a new no telephone solicitation contact list has been published by the
13 Public Utilities Commission, no telephone solicitor may make or cause to be made any telephone
14 solicitation to any telephone number which is assigned by a telephone company to a person listed
15 on the no telephone solicitation contact list as appears in the then current quarterly listing
16 published by the commission. Any person violating the terms of this section is subject to a civil
17 penalty to be imposed by the court. The court shall impose a civil penalty not to exceed five
18 hundred dollars for a first violation, a civil penalty not to exceed two thousand five hundred
19 dollars for a second violation, and a civil penalty not to exceed five thousand dollars per violation
20 for a third and subsequent violation.

21 Section 6. That chapter 37-30 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 Section 5 of this Act does not apply to any telephone solicitation:

24 (1) To a telephone subscriber's commercial or business telephone number;

1 (2) Where an established business relationship exists between the telephone solicitor and
2 the telephone subscriber. However, the established and existing business relationship
3 exception does not apply between a telephone company and a telephone subscriber
4 under this section unless the telephone subscriber has previously consented to receive
5 a telephone solicitation from such company or its agent; or

6 (3) By a minor seeking to sell a good or service, pursuant to a telephone solicitation, for
7 a charitable purpose or organization.

8 Section 7. That chapter 37-30 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 For purposes of this Act, the term, telephone company, means a person providing
11 telecommunications services to the public, or any segment thereof, for compensation, by wire,
12 cable, radio, light waves, cellular signal or other means. The term, telecommunications services,
13 means the conveyance of voice, data, sign, signal, writing, sound, messages or other information
14 at any frequency over any part of the electromagnetic spectrum.

15 Section 8. That chapter 37-30 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The Public Utilities Commission shall advise any telephone subscriber who registers with the
18 commission under the provisions of this Act of all self-help measures available to them to reduce
19 unwanted telephone solicitations.