§1498. Automated telephone solicitation prohibited; exceptions; penalties

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Automated telephone calling device" means any system or equipment, including a facsimile machine, that selects, dials or calls telephone numbers and plays recorded messages or attempts to send facsimiles. [PL 2005, c. 197, §1 (AMD).]

A-1. "Misleading or inaccurate caller identification information" includes, to the extent consistent with federal law, blocked caller identification information. [PL 2019, c. 185, §1 (NEW).]

B. "Solicitation calls" means calls, including facsimile transmissions, the purpose of which is any of the following:

(1) To offer real property, goods or services for sale or rent;

(2) To convey information on real property, goods or services to solicit sales or purchases;

(3) To promote or solicit charitable contributions; or

(4) To gather data or statistics or solicit information. [PL 2005, c. 197, §1 (AMD).]
[PL 2019, c. 185, §1 (AMD).]

2. Prohibition. A person may not use an automated telephone calling device or an artificial or prerecorded voice to make solicitation calls to:

A. Any emergency telephone numbers in this State including, but not limited to, the emergency telephone numbers of any hospital, physician, health care facility, ambulance service, or fire or law enforcement officer or facility; [PL 1989, c. 775 (NEW).]

B. Any paging or cellular phone within the State; [PL 2019, c. 185, §2 (AMD).]

C. Any unlisted, unpublished, toll-free long distance or direct inward dial telephone number within the State; or [PL 2019, c. 185, §2 (AMD).]

D. Any residential telephone number within the State. [PL 2019, c. 185, §2 (NEW).]
[PL 2019, c. 185, §2 (AMD).]

3. Restriction. A person may not use an automated telephone calling device to make solicitation calls to any telephone number in the State except weekdays between 9 a.m. and 5 p.m., according to the time in this State, and may not complete more than one solicitation call to any telephone number during each 8-hour period. In addition, the person using the device to place the call shall ensure that the device disconnects no more than 5 seconds following the disconnection of the telephone number called.
[PL 1991, c. 524, §2 (AMD).]

4. Caller identification. Persons making calls restricted under the provision of subsection 3 shall, within the first minute of the call, identify the name, address and telephone number of the organization for whom the call is being made.
[PL 1989, c. 775 (NEW).]

5. Prima facie violation. Use of any automated calling device that calls telephone numbers sequentially and cannot distinguish the telephone numbers of those authorized to be contacted from those it is unlawful to contact is prima facie evidence of intent to violate this section.
[PL 1989, c. 775 (NEW).]

6. Exceptions. This section does not prohibit the use of an automated telephone calling device or an artificial or prerecorded voice to:

A. Inform purchasers of the receipt, availability or delivery of goods or services or any other pertinent information on the status of any purchased goods or services; [PL 1989, c. 775 (NEW).]

B. Respond to a telephone inquiry initiated by the person to whom the automated call or call using an artificial or prerecorded voice is directed; [PL 2019, c. 185, §3 (AMD).]

C. Carry out the duties of any state or local governmental unit or school administrative unit or private school; [PL 2019, c. 185, §3 (AMD).]

D. Deliver an emergency message by a governmental entity; [PL 2019, c. 185, §3 (NEW).]

E. Deliver information with the prior, written, express consent of the recipient of the call; or [PL 2019, c. 185, §3 (NEW).]

F. Communicate with a business about reservations, purchases and other information for customers such as hours of operation, directions and merchandise availability. [PL 2019, c. 185, §3 (NEW).]
[PL 2019, c. 185, §3 (AMD).]

7. Registration.
[PL 1999, c. 694, §1 (RP).]

7-A. Failure to produce transcript. A person using an automated telephone calling device for making solicitation calls shall maintain a full transcript of each solicitation call message that the person has transmitted to consumers during the previous 24 months. A copy of the transcript must be made available to the Attorney General upon request. Failure to provide a copy of a requested transcript is a violation of this section.
[PL 1999, c. 694, §2 (NEW).]

8. Penalty. Violation of this section is an unfair trade practice as prohibited by Title 5, section 207.
[PL 1999, c. 694, §3 (AMD).]

SECTION HISTORY

PL 1989, c. 775 (NEW). PL 1991, c. 524, §§2,3 (AMD). PL 1999, c. 694, §§1-3 (AMD). PL 2005, c. 197, §1 (AMD). PL 2019, c. 185, §§1-3 (AMD).

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