

HOUSE BILL No. 1260

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.7-2; IC 24-4.7-3-5.

Synopsis: Telephone solicitation law. Allows, beginning January 1, 2005, a small business to be placed on the quarterly listing of Indiana telephone subscribers that request not to be solicited by telephone. Requires the consumer protection division of the attorney general's office to include a breakdown of the listing's residential and small business subscribers in the division's annual report to the regulatory flexibility committee.

Effective: Upon passage; January 1, 2005; July 1, 2005.

Grubb

January 15, 2004, read first time and referred to Committee on Appointments and Claims.

C
o
p
y



Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

C
o
p
y

HOUSE BILL No. 1260



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations and consumer sales and credit.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-4.7-2-2, AS ADDED BY P.L.189-2001,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2005]: Sec. 2. "Consumer" means a residential **or a**
- 4 **small business** telephone subscriber who is an actual or a prospective:
- 5 (1) purchaser, lessee, or recipient of consumer goods or services;
- 6 or
- 7 (2) donor to a charitable organization.
- 8 SECTION 2. IC 24-4.7-2-3, AS ADDED BY P.L.189-2001,
- 9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JANUARY 1, 2005]: Sec. 3. "Consumer goods or services" means any
- 11 of the following:
- 12 (1) Tangible or intangible personal property or real property that
- 13 is normally used:
- 14 (A) for personal, family, or household purposes, **if used by a**
- 15 **consumer that is a residential consumer; or**
- 16 **(B) in the ordinary course of business, if used by a**
- 17 **consumer that is a small business consumer.**



- 1 (2) Property intended to be attached to or installed on real
- 2 property without regard to whether it is attached or installed.
- 3 (3) Services related to property described in subdivision (1) or
- 4 (2).
- 5 (4) Credit cards or the extension of credit.

6 SECTION 3. IC 24-4.7-2-7, AS ADDED BY P.L.189-2001,
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JANUARY 1, 2005]: Sec. 7. "Listing" refers to the no telephone sales
 9 solicitation listing published by the division under IC 24-4.7-3 that lists
 10 the names of ~~persons~~ **consumers** who do not wish to receive telephone
 11 sales calls.

12 SECTION 4. IC 24-4.7-2-7.5 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JANUARY 1, 2005]: **Sec. 7.5. "Small business" has**
 15 **the meaning set forth in IC 5-22-14-1. The term includes an**
 16 **independently owned and operated business that operates under a**
 17 **franchise from another business.**

18 SECTION 5. IC 24-4.7-2-8, AS ADDED BY P.L.189-2001,
 19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2005]: Sec. 8. "Telephone number" means a residential **or a**
 21 **small business** telephone number.

22 SECTION 6. IC 24-4.7-3-5, AS ADDED BY P.L.189-2001,
 23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2005]: Sec. 5. (a) The division shall, after June 30 and before
 25 October 1 of each year, report to the regulatory flexibility committee
 26 established by IC 8-1-2.6-4 on the following:

- 27 ~~(1)~~ For the state fiscal year ending June 30, 2002, the expenses
- 28 ~~incurred by the division in establishing the listing:~~
- 29 ~~(2)~~ **(1)** The total amount of fees deposited in the fund during the
- 30 most recent state fiscal year.
- 31 ~~(3)~~ **(2)** The expenses incurred by the division in maintaining and
- 32 promoting the listing during the most recent state fiscal year.
- 33 ~~(4)~~ **(3)** The projected budget required by the division to comply
- 34 with this article during the current state fiscal year.
- 35 ~~(5)~~ **(4)** Any other expenses incurred by the division in complying
- 36 with this article during the most recent state fiscal year.
- 37 ~~(6)~~ **(5)** The total number of subscribers on the listing at the end of
- 38 the most recent state fiscal year.
- 39 ~~(7)~~ **(6)** The number of new subscribers added to the listing during
- 40 the most recent state fiscal year.
- 41 ~~(8)~~ **(7)** The number of subscribers removed from the listing for
- 42 any reason during the most recent state fiscal year.

C
o
p
y



1 (b) For each state fiscal year, beginning with the state fiscal year
2 ending June 30, 2005, the division shall, in reporting the
3 information required under subsection (a)(5), (a)(6), and (a)(7),
4 identify the number of subscribers that are residential subscribers
5 and the number of subscribers that are small business subscribers.

6 (c) The regulatory flexibility committee shall, before November 1
7 of each year, issue a report and recommendations to the legislative
8 council concerning the information received under subsection (a).

9 SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this
10 SECTION, "division" refers to the consumer protection division
11 of the office of the attorney general.

12 (b) As used in this SECTION, "consumer" has the meaning set
13 forth in IC 24-4.7-2-2, as amended by this act.

14 (c) Notwithstanding IC 24-4.7-2-2, IC 24-4.7-2-3, IC 24-4.7-2-7,
15 IC 24-4.7-2-8, and IC 24-4.7-3-5, all as amended by this act, and
16 IC 24-4.7-2-7.5, as added by this act, the division shall adopt any
17 rules to implement IC 24-4.7-2-2, IC 24-4.7-2-3, IC 24-4.7-2-7,
18 IC 24-4.7-2-8, and IC 24-4.7-3-5, all as amended by this act, and
19 IC 24-4.7-2-7.5, as added by this act, in the same manner as
20 emergency rules are adopted under IC 4-22-2-37.1. Any rules
21 adopted under this SECTION must be adopted not later than
22 September 1, 2004. A rule adopted under this SECTION expires on
23 the earlier of:

24 (1) the date a rule is adopted by the division under
25 IC 4-22-2-24 through IC 4-22-2-36 to implement
26 IC 24-4.7-2-2, IC 24-4.7-2-3, IC 24-4.7-2-7, IC 24-4.7-2-8, and
27 IC 24-4.7-3-5, all as amended by this act, and IC 24-4.7-2-7.5,
28 as added by this act; or

29 (2) January 1, 2006.

30 (d) Notwithstanding IC 24-4.7-2-2, IC 24-4.7-2-3, IC 24-4.7-2-7,
31 IC 24-4.7-2-8, and IC 24-4.7-3-5, all as amended by this act, and
32 IC 24-4.7-2-7.5, as added by this act, the division shall adopt any
33 emergency rules under subsection (c) so as to allow a consumer
34 that is a small business telephone subscriber to be placed on the
35 quarterly listing maintained by the division under IC 24-4.7-3-1,
36 beginning with the quarterly listing for the quarter beginning
37 January 1, 2005.

38 (e) This SECTION expires January 1, 2006.

39 SECTION 8. An emergency is declared for this act.

C
o
p
y

