

# SENATE BILL No. 436

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Including businesses on the do not call list. Allows, beginning with the quarterly listing for the quarter beginning October 1, 2011, the telephone number of an Indiana business to be placed on the quarterly listing of telephone numbers of Indiana consumers that request not to be solicited by telephone. Specifies that the statute governing the listing applies to a telephone subscriber who, for the service received: (1) has a place of primary use in Indiana; or (2) is issued an Indiana telephone number or an Indiana identification number; in order to include within the protections afforded by the statute subscribers of interconnected VOIP service, subscribers of mobile telecommunications services, and users of a prepaid wireless calling service. Requires the attorney general's consumer protection division (division) to notify Indiana residents of the right of any of those subscribers or users to place a telephone number on the listing. Requires the division to include a breakdown of the listing's residential and business subscribers in the division's annual report to the regulatory flexibility committee.

**Effective:** Upon passage.

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January 12, 2011, read first time and referred to Committee on Commerce & Economic Development.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 436



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

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

1 SECTION 1. IC 24-4.7-2-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** "Consumer"  
3 means a residential **or business** telephone subscriber who: ~~is an actual~~  
4 ~~or a prospective:~~

5 **(1) for the telephone service received:**

6 **(A) has a place of primary use in Indiana; or**

7 **(B) is issued an Indiana telephone number or an Indiana**  
8 **identification number; and**

9 **(2) is an actual or a prospective:**

10 ~~(1)~~ **(A) purchaser, lessee, or recipient of consumer goods or**  
11 **services; or**

12 ~~(2)~~ **(B) donor to a charitable organization.**

13 **(b) The term includes a user of a prepaid wireless calling service**  
14 **(as defined in IC 6-2.5-1-22.4) who:**

15 **(1) is issued an Indiana telephone number or an Indiana**  
16 **identification number for the service; or**

17 **(2) purchases prepaid wireless calling service in a retail**



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**transaction that is sourced to Indiana (as determined under IC 6-2.5-12-16).**

SECTION 2. IC 24-4.7-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. "Consumer goods or services" means any of the following:

- (1) Tangible or intangible personal property or real property that is normally used for personal, family, ~~or~~ household, **or business** purposes.
- (2) Property intended to be attached to or installed on real property without regard to whether it is attached or installed.
- (3) Services related to property described in subdivision (1) or (2).
- (4) Credit cards or the extension of credit.

SECTION 3. IC 24-4.7-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. "Listing" refers to the no telephone sales solicitation listing published by the division under IC 24-4.7-3 that lists the ~~names~~ **telephone numbers** of ~~persons~~ **consumers** who do not wish to receive telephone sales calls.

SECTION 4. IC 24-4.7-2-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. "Place of primary use", with respect to a telephone subscriber, means the street address representative of where the subscriber's use of the telephone service primarily occurs, which must be:**

- (1) the residential street address or the primary business street address of the subscriber or, in the case of a subscriber of interconnected VOIP service, the subscriber's registered location (as defined in 47 CFR 9.3); and**
- (2) in the case of mobile telecommunications services (as defined in IC 6-8.1-15-7), within the licensed service area of the home service provider, as set forth in IC 6-8.1-15-8.**

SECTION 5. IC 24-4.7-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Telephone number" means a residential **or business** telephone number **that:**

- (1) is assigned to a subscriber who has a place of primary use in Indiana; or**
- (2) otherwise represents an Indiana telephone number or is associated with an Indiana identification number.**

SECTION 6. IC 24-4.7-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A quarterly listing of telephone numbers of Indiana consumers who request not to be solicited by telephone shall be established, maintained, and

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published as provided in this section.

(b) The telephone number of a consumer shall be placed on the listing if the consumer requests to be added to the listing according to a procedure approved by the division. **Beginning with the quarterly listing for the quarter beginning October 1, 2011, the telephone number of a consumer that is an Indiana business shall be placed on the listing if the consumer requests to be added to the listing, according to a procedure approved by the division.**

(c) The listing shall be updated upon receipt of a request from a consumer.

(d) A telephone solicitor may obtain a copy of the listing upon request of the telephone solicitor as provided in this section.

(e) The division shall establish a fee to be paid by a telephone solicitor for obtaining a copy of the listing. The fee established under this subsection may not exceed the amount necessary to cover the cost of providing the listing to telephone solicitors.

SECTION 7. IC 24-4.7-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The division shall notify Indiana residents **and businesses** of the rights and duties created by this article, **including the right of any of the following consumers to place a telephone number on the listing established and maintained under section 1 of this chapter:**

- (1) **Subscribers of interconnected VOIP service.**
- (2) **Subscribers of mobile telecommunications service (as defined in IC 6-8.1-15-7).**
- (3) **Users of a prepaid wireless calling service, as described in IC 24-4.7-2-2(b).**

SECTION 8. IC 24-4.7-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The division shall, after June 30 and before October 1 of each year, report to the regulatory flexibility committee established by IC 8-1-2.6-4 on the following:

- (1) For the state fiscal year ending June 30, 2002, the expenses incurred by the division in establishing the listing.
- (2) The total amount of fees deposited in the fund during the most recent state fiscal year.
- (3) The expenses incurred by the division in maintaining and promoting the listing during the most recent state fiscal year.
- (4) The projected budget required by the division to comply with this article during the current state fiscal year.
- (5) Any other expenses incurred by the division in complying with this article during the most recent state fiscal year.

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- 1 (6) The total number of subscribers on the listing at the end of the
- 2 most recent state fiscal year.
- 3 (7) The number of new subscribers added to the listing during the
- 4 most recent state fiscal year.
- 5 (8) The number of subscribers removed from the listing for any
- 6 reason during the most recent state fiscal year.
- 7 **(b) For each state fiscal year, beginning with the state fiscal year**
- 8 **ending June 30, 2012, the division shall, in reporting the**
- 9 **information required under subsection (a)(6), (a)(7), and (a)(8),**
- 10 **identify the number of subscribers that are residential subscribers**
- 11 **and the number of subscribers that are business subscribers, to the**
- 12 **extent determinable.**
- 13 ~~(b)~~ **(c)** The regulatory flexibility committee shall, before November
- 14 1 of each year, issue in an electronic format under IC 5-14-6 a report
- 15 and recommendations to the legislative council concerning the
- 16 information received under subsection (a).
- 17 **SECTION 9. An emergency is declared for this act.**

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