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REFERENCE TITLE: telephone call centers; consumer rights

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

## **HB 2581**

Introduced by

Representatives Loredó, Downing, Landrum Taylor, Lopes, Lopez L, Meza, Prezelski: Aguirre A, Alvarez, Bradley, Bustamante, Cajero Bedford, Chase, Clark, Gallardo, Jackson Jr, Straughn

AN ACT

AMENDING SECTIONS 44-1271 AND 44-1276, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 9, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1283; RELATING TO TELEPHONE SOLICITATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-1271, Arizona Revised Statutes, is amended to  
3 read:

4 ~~44-1271.~~ Definitions

5 In this article, unless the context otherwise requires:

6 1. "Consumer" means a person who is solicited by a seller or  
7 solicitor.

8 2. "CONSUMER SALES CALL CENTER" MEANS AN ENTITY WHOSE PRIMARY PURPOSE  
9 INCLUDES THE INITIATING OR RECEIVING OF TELEPHONIC COMMUNICATIONS ON BEHALF  
10 OF ANY PERSON FOR THE PURPOSE OF INITIATING SALES, INCLUDING TELEPHONE  
11 SOLICITATIONS.

12 3. "CONSUMER SERVICE CALL CENTER" MEANS AN ENTITY WHOSE PRIMARY  
13 PURPOSE INCLUDES THE INITIATING OR RECEIVING OF TELEPHONIC COMMUNICATIONS ON  
14 BEHALF OF ANY PERSON FOR THE PURPOSES OF PROVIDING OR RECEIVING SERVICES OR  
15 INFORMATION NECESSARY IN CONNECTION WITH PROVIDING SERVICES OR BENEFITS.

16 4. "CONSUMER SERVICES EMPLOYEE" MEANS A PERSON EMPLOYED BY OR WORKING  
17 ON BEHALF OF A CONSUMER SALES CALL CENTER OR A CONSUMER SERVICE CALL CENTER.

18 ~~2-~~ 5. "Licensed associated person of a securities, commodities or  
19 investments broker" means any associated person registered or licensed by the  
20 national association of securities dealers, a self-regulatory organization as  
21 defined in the securities exchange act of 1934 (15 United States Code section  
22 78c) or an official or agency of this state or of any other state of the  
23 United States.

24 ~~3-~~ 6. "Licensed securities commodities or investments broker, dealer  
25 or investment advisor" means a person licensed or registered as a securities  
26 commodities or investments broker, dealer or investment advisor by the  
27 securities and exchange commission, the national association of securities  
28 dealers, a self-regulatory organization as defined in the securities exchange  
29 act of 1934 (15 United States Code section 78c) or an official or agency of  
30 this state or of any other state of the United States.

31 ~~4-~~ 7. "Manager" means a person who supervises the work of a  
32 solicitor.

33 ~~5-~~ 8. "Merchandise" means objects, wares, goods, commodities,  
34 intangibles, real estate, securities or services.

35 ~~6-~~ 9. "Person" means:

36 (a) A natural person or the person's legal representative.

37 (b) A partnership, a limited liability company, a limited liability  
38 partnership or a domestic or foreign corporation.

39 (c) A company, trust, business entity or association.

40 (d) An agent, employee, salesman, partner, officer, director, member,  
41 stockholder, associate or trustee.

42 (e) Any other legal entity or any group associated in fact although  
43 not a legal entity.

44 ~~7-~~ 10. "Premium" means any gift, bonus, prize, award or other  
45 incentive or inducement to purchase merchandise.

1           ~~8.~~ 11. "Principal" means an owner or an officer of a corporation or  
2 limited liability company, a general partner of a partnership, a sole  
3 proprietor of a sole proprietorship, a partner of a limited liability  
4 partnership, a trustee of a trust and any other individual who controls,  
5 manages or supervises a telephone sales operation.

6           ~~9.~~ 12. "Prize" means anything offered or purportedly offered and  
7 given or purportedly given to a person by chance. Chance exists if a person  
8 is guaranteed to receive an item and at the time of the offer or purported  
9 offer the seller or solicitor does not identify the specific item that the  
10 person will receive.

11          ~~10.~~ 13. "Prize promotion" means a sweepstakes or other game of chance  
12 or an oral or written express or implied representation that a person has  
13 won, has been selected to receive or may be eligible to receive a prize or  
14 purported prize.

15          ~~11.~~ 14. "Recovery service" means any business or other practice in  
16 which a person represents or implies that the person will recover or assist  
17 in recovering for a fee any amount of money that a consumer has provided to a  
18 seller pursuant to a telephone solicitation.

19          ~~12.~~ 15. "Seller" means a person who, directly or through a solicitor,  
20 does any of the following:

21           (a) Initiates telephone calls to provide or arrange to provide  
22 merchandise to consumers in exchange for payment.

23           (b) Solicits by telephone in response to inquiries from a consumer  
24 generated by a notification or communication sent or delivered to the  
25 consumer that represents or implies that:

26           (i) The consumer has been specially selected in any manner to receive  
27 the notification or communication or the offer contained in the notification  
28 or communication.

29           (ii) The consumer will receive a premium if the consumer calls the  
30 person.

31           (iii) If the consumer purchases merchandise from the person, the  
32 consumer will also receive additional or other merchandise, the same as or  
33 different from the type of merchandise purchased, without any additional  
34 charge or for a price that the person represents or implies is less than the  
35 regular price of the merchandise.

36           (iv) The person is offering for sale the services of a recovery  
37 service.

38           (v) The person is offering to make a loan, to arrange or assist in  
39 arranging a loan or to assist in providing information that may lead to  
40 obtaining a loan unless no payment of any kind is made until the loan  
41 proceeds are disbursed to the borrower.

42           (vi) The consumer will receive a credit card if the consumer pays a  
43 fee for the card before receiving the card.

44           (c) Solicits by telephone in response to inquiries generated by  
45 advertisements on behalf of the person that represent or imply that:

1 (i) The person is offering to sell the services of a recovery service.

2 (ii) The person is offering to make a loan, to arrange or assist in  
3 arranging a loan or to assist in providing information that may lead to  
4 obtaining a loan unless no payment of any kind is made until the loan  
5 proceeds are disbursed to the borrower.

6 (iii) The consumer will receive a credit card if the consumer pays a  
7 fee for the card before receiving the card.

8 ~~13-~~ 16. "Solicitor" means a person, other than a seller or employee of  
9 a seller, who uses a telephone to seek sales or rentals of merchandise on  
10 behalf of a seller or uses a telephone to verify sales or rentals for a  
11 seller.

12 ~~14-~~ 17. "Subscriber" means a person who subscribes to residential  
13 telephone service from a local exchange company and any person who lives or  
14 subscribes with that person.

15 ~~15-~~ 18. "Telephone solicitation" means any voice communication to a  
16 telephone number in this state from a live operator, announcing device or  
17 otherwise to offer merchandise for sale or rent.

18 Sec. 2. Section 44-1276, Arizona Revised Statutes, is amended to read:

19 44-1276. Required disclosures; payment for goods;  
20 identification of seller, solicitor or consumer  
21 services employee; cancellation of telephone  
22 solicitation sale; notice of right to cancel;  
23 information sent to other countries prohibited

24 A. Before beginning the solicitation or sales presentation over the  
25 telephone, the seller ~~or~~, solicitor **OR CONSUMER SERVICES EMPLOYEE** shall  
26 disclose to the consumer:

27 1. The complete street address of the physical location, **INCLUDING THE**  
28 **CITY, STATE AND COUNTRY**, from which the seller ~~or~~, solicitor **OR CONSUMER**  
29 **SERVICES EMPLOYEE** is making the telephone solicitation and the complete  
30 street address of the seller's principal location.

31 2. The legal name of the seller on whose behalf the solicitor is  
32 making the solicitation **OR THE EMPLOYER OF THE CONSUMER SERVICES EMPLOYEE**.

33 3. The solicitor's **OR CONSUMER SERVICES EMPLOYEE'S** true legal name.

34 4. That the purpose of the call is to sell merchandise.

35 **B. ANY PERSON WHO RECEIVES A TELEPHONE CALL FROM OR PLACES A TELEPHONE**  
36 **CALL TO A CONSUMER SALES CALL CENTER OR A CONSUMER SERVICE CALL CENTER, ON**  
37 **REQUEST, HAS THE RIGHT TO SPEAK TO A QUALIFIED EMPLOYEE OF THE COMPANY OR**  
38 **GOVERNMENT AGENCY WITH WHICH THE PERSON IS DOING BUSINESS.**

39 ~~B-~~ C. During any solicitation or sales presentation made by a seller  
40 or solicitor and in any written correspondence provided to the consumer as  
41 part of the solicitation, the seller or solicitor shall clearly and  
42 conspicuously disclose to the consumer:

43 1. Any charge, including the amount for the use of any premium being  
44 offered.



1 CALL CENTER OR A CONSUMER SERVICE CALL CENTER UNLESS THE PERSON GIVES EXPRESS  
2 WRITTEN PERMISSION.

3 ~~G.~~ I. For the purposes of this section, business day does not include  
4 Sunday or a federal or state holiday.

5 Sec. 3. Title 44, chapter 9, article 6, Arizona Revised Statutes, is  
6 amended by adding section 44-1283, to read:

7 44-1283. Contracts with vendors located in the United States;  
8 violation; classification; void contracts

9 A. ENTITIES REGISTERED PURSUANT TO THIS ARTICLE SHALL ONLY CONTRACT  
10 FOR TELEPHONE SOLICITATION SERVICES, CONSUMER SALES CALL CENTER SERVICES OR  
11 CONSUMER SERVICE CALL CENTER SERVICES WITH VENDORS THAT OPERATE TELEPHONE  
12 SOLICITATION SERVICES, CONSUMER SALES CALL CENTER SERVICES OR CONSUMER  
13 SERVICE CALL CENTER SERVICES ON BEHALF OF THIS STATE IN THE UNITED STATES.

14 B. THE SECRETARY OF STATE SHALL REQUIRE EACH VENDOR SUBMITTING A BID  
15 OR CONTRACT TO PROVIDE SERVICES FOR THIS STATE AS SET FORTH IN SUBSECTION A  
16 TO CERTIFY THAT ONLY VENDORS WHO OPERATE IN THE UNITED STATES WILL BE  
17 PERFORMING SERVICES UNDER THE CONTRACT. ANY PERSON WHO KNOWINGLY SUBMITS A  
18 FALSE CERTIFICATION IS GUILTY OF A CLASS \_\_\_\_\_ FELONY.

19 C. A CONTRACT ENTERED INTO OR PERFORMED IN VIOLATION OF THIS SECTION  
20 IS VOID. A CONTRACT THAT IS VOID UNDER THIS SECTION MAY CONTINUE IN EFFECT  
21 UNTIL AN ALTERNATE CONTRACT CAN BE ARRANGED IF BOTH OF THE FOLLOWING APPLY:

22 1. IMMEDIATE TERMINATION WOULD RESULT IN HARM TO THE PUBLIC HEALTH OR  
23 WELFARE. APPROVAL UNDER THIS PARAGRAPH SHALL BE GIVEN FOR THE MINIMUM PERIOD  
24 NECESSARY TO PROTECT THE PUBLIC HEALTH OR WELFARE.

25 2. THE SECRETARY OF STATE APPROVES THE CONTINUATION.