

SUBJECT: Amending the Texas Telemarketing Disclosure and Privacy Act

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Deshotel, Elkins, Christian, England, Orr, Quintanilla
0 nays
5 absent — Gattis, Giddings, Keffer, S. Miller, S. Turner

WITNESSES: For — (*Registered, but did not testify:* David Power, Public Citizen)
Against — None

BACKGROUND: Business and Commerce Code, ch. 304 regulates telemarketing. Sec. 304 establishes the Texas Telemarketing Disclosure and Privacy Act and requires the Public Utility Commission (PUC) to establish a telemarketer “no-call” list containing phone numbers of residential customers who do not wish to receive unsolicited telemarketing calls.

A telemarketing call is not subject to the act’s provisions if it is made by a state licensee under certain circumstances: in connection with an established business relationship or, under certain circumstances, a terminated business relationship; by a consumer as a result of a solicitation or advertisement; between a telemarketer and a business, unless the business had asked not to be called; to collect a debt; or in regard to securities.

DIGEST: HB 2795 would add a contractual service to the definition of consumer goods and services, including the extension of a warranty for a motor vehicle, covered by the Telemarketing Act prohibition.

The bill would take effect September 1, 2009.

SUPPORTERS SAY: HB 2795 would establish tougher telemarketing regulations by including auto warranty sales among the entities that could not make unsolicited calls to Texans. It would protect both legitimate businesses and consumers who are harassed and defrauded by unscrupulous telemarketers.

Telemarketing is a legitimate business practice, but some use high-pressure, ongoing, deceptive tactics to defraud Texans. Consumers across the United States lose billions each year through telemarketing fraud.

Many consumers report receiving repeated, daily calls from those selling auto warranties. Some consumers say they are getting calls on vehicles purchased over ten years ago. This is an unreasonable infringement on consumer privacy.

**OPPONENTS
SAY:**

Current law already provides protections against telemarketing abuses. The bill would place overly burdensome restrictions on legitimate telemarketers and could affect companies that already comply with federal and state laws. Telemarketers already are prohibited from calling people who ask not to be called.

**OTHER
OPPONENTS
SAY:**

Many of these telemarketers are located in Canada and it is not clear whether HB 2795 would apply to companies operating outside the United States.