

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

OFFICE OF THE SECRETARY

10 JUL 22 94 08

SENATE
S. No. **1902**

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE


The Constitution, Article 16, Section 9, provides:

The State shall protect consumers from trade malpractices and from substandard or hazardous products.

Telemarketing is a recent innovation. Telemarketing means a plan, program, or campaign, which is conducted to induce purchase of goods or services by significant use of telephones. It differs from other sales activities in that it can be carried out by sellers without direct contact.

Due to its unique character, many consumers are victimized by several forms of telemarketing deception and abuse. Thus, Congress should enact legislation that will offer consumers necessary protection from telemarketing deception (including fraud) and abuse.

The purpose of this bill is to strengthen the authority of the Department of Trade and Industry regarding fraud committed in connection with sales made with a telephone.¹


MIRIAM DEFENSOR SANTIAGO

¹ This bill was originally filed during the Fourteenth Congress, First Regular session.

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1 AN ACT
2 EMPOWERING THE DEPARTMENT OF TRADE AND INDUSTRY TO REGULATE
3 ABUSIVE TELEMARKETING ACTIVITIES

4 *Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress assembled:*

5 SECTION 1. *Short Title.* - This Act shall be known as the "Consumer Protection
6 Telemarketing Ac."

7 SECTION 2. *Definition.* -For purposes of this Act, the term "telemarketing" means a
8 plan, program, or campaign which is conducted to induce purchases of goods or services by
9 significant use of one (1) or more telephones. The term does not include the solicitation of sales
10 through the mailing of a catalog which -

11 (A) contains a written description or illustration of the goods or services offered for sale;

12 (B) includes the business address of the seller;

13 (C) includes multiple pages of written material or illustrations; and

14 (D) has been issued not less frequently than once a year, where the person making the
15 solicitation does not solicit customers by telephone but only receives calls initiated by
16 customers in response to the catalog and during those calls takes orders only without
17 further solicitation.

18 SECTION 3. *Telemarketing Rule.* -

19 (A) IN GENERAL -

20 (1) The Department of Trade and Industry shall prescribe rules prohibiting
21 deceptive (including fraudulent) marketing activities and other abusive
22 telemarketing activities.

(2) The Department shall include in such rules respecting deceptive telemarketing activities -

(a) a definition of deceptive telemarketing activities; and

(b) criteria that are symptomatic of deceptive telemarketing as distinguished from ordinary telemarketing business practices.

(3) The Department shall include in such rules respecting other abusive telemarketing activities a requirement that telemarketers may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy. In prescribing the rules described in this paragraph, the Department shall consider -

(a) including a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period, a refund be required, and

(b) including, where practicable, authority for a person who orders a good or service through telemarketing to cancel the order within a specified period.

(B) RULE-MAKING - The Department shall prescribe the rules under subsection (1) within two hundred seventy (270) days after the date of enactment of this Act.

SECTION 4. *Action by Private Persons.* - Any person adversely affected by any pattern or practice of telemarketing which violates any rule of the Department under section (3) or an unauthorized person acting on such person's behalf may, within three (3) years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule of the Department under Section 3, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

SECTION 5. *Separability Clause.* - If any provision or part thereof is held invalid or unconstitutional, the remainder of the law of the provision not otherwise affected shall remain valid and subsisting.

1 SECTION 6. *Repealing Clause.* - Any law, presidential decree or issuance, executive
2 order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent
3 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

4 SECTION 7. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
5 publication in at least two (2) newspapers of general circulation.

6 Approved,
7