

HOUSE No. 352

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act prohibiting robocalls to all mobile telephone devices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/18/2019</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>1/23/2019</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/30/2019</i>

HOUSE No. 352

By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 352) of William M. Straus, Louis L. Kafka and Michelle M. DuBois for legislation to regulate robocalls to mobile telephone devices. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act prohibiting robocalls to all mobile telephone devices.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 159C of the General Laws is hereby amended by adding
2 the following 5 sections:-

3 Section 15. As used in sections 15 to 18, inclusive, the following words shall,
4 unless the context requires otherwise, have the following meanings:-

5 “Hands-free mobile telephone”, shall have the same meaning as set forth in
6 section 1 of chapter 90.

7 “Mobile electronic device”, shall have the same meaning as set forth in section 1
8 of chapter 90.

9 “Mobile telephone”, shall have the same meaning as set forth in section 1 of
10 chapter 90.

11 “Robocall”, an automated phone call that uses both a computerized auto-dialer
12 and a computer-delivered pre-recorded message.

13 Section 16. (a) All robocalls shall be prohibited in the commonwealth to any hands-free
14 mobile telephones, mobile electronic devices and mobile telephones as defined in section 15.

15 (b) This section shall not apply to: (1) messages from school districts to students, parents
16 or employees; (2) messages advising employees of work schedules; (3) messages on behalf of
17 correctional facilities advising victims; (4) messages on behalf of municipalities and
18 government; (5) messages concerning the care, services or supplies related to the health of an
19 individual; or (6) non-marketing messages from public utilities or telecommunications service
20 providers.

21 Section 17. (a) A consumer may file a complaint with the office of consumer
22 affairs and business regulation or the attorney general on a violation of section 16. The office of
23 consumer affairs and business regulation and the attorney general may investigate any complaint
24 filed or independently investigate any entity engaged in robocalls in the Commonwealth. If the
25 office of consumer affairs and business regulation or the attorney general after an investigation
26 finds that allowing an entity whose continuation of robocalls will cause harm may seek injunctive
27 relief.

28 (b) Any violation of section 16 shall be a fine of not less than \$10,000 for each knowing
29 violation, but not less than \$15,000 for each knowing violation involving a consumer who is 65
30 years of age or older.

31 (c) A person who has received more than 1 robocall within a 12-month period by or on
32 behalf of the same person or entity in violation of section 16 may initiate an action against said
33 person or entity pursuant to chapter 93A and may seek injunctive relief.

34 Section 18. The office of consumer affairs and business regulation and the attorney
35 general shall provide information to consumers through its website on how a consumer can file a
36 complaint regarding robocalls; provided further that, the office of consumer affairs and the
37 attorney general shall provide educational awareness and prevention materials consumers can
38 utilize to address robocalls.

39 Section 19. The office of consumer affairs and business regulation shall report annually
40 to the joint committee on consumer protection and professional licensure and the house and
41 senate clerks; provided further that, such report shall include but not limited to the following
42 findings: (1) the number of complaints; (2) the type and nature of the robocalls; (3) the entities or
43 persons whom the complaints were against; (4) investigations or actions taken by the office or
44 the attorney general's office; (5) comparison of the FTC's robocall complaint data on
45 Massachusetts residents with findings from the office of consumer affairs and business
46 regulation; and (6) any other relative data pertaining to robocall telephone solicitors,
47 complainants, or additional findings that may offer insight and preventative measures to address
48 robocalls in the Commonwealth.

49 Section 20. Sections 15 to 17, inclusive, shall not apply to any outbound
50 telephone call that delivers a prerecorded healthcare message made by, or on behalf of, a covered
51 entity or its business associate, as those terms are defined in the HIPAA Privacy Rule, 45 CFR §
52 160.103.