

HOUSE No. 189

The Commonwealth of Massachusetts

PRESENTED BY:

Gailanne M. Cariddi

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 relative to the do not call list law to regulate certain charitable solicitations.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Gailanne M. Cariddi

1st Berkshire

Denise Andrews

2nd Franklin

HOUSE No. 189

By Ms. Cariddi of North Adams, a petition (accompanied by bill, House, No. 189) of Gailanne M. Cariddi and Denise Andrews for legislation to regulate telemarketing for charitable solicitations. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to the do not call list law to regulate certain charitable solicitations.

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

1 An act relative to the do not call list law to regulate certain charitable solicitations..

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

4 SECTION 1. Section one of chapter 159C of the general laws is hereby amended by
5 inserting the following definitions in their appropriate alphabetically-ordered locations, and by
6 striking out any existing definitions of the same terms:--

7 “Charitable contribution” shall have the same meaning as “contributions” in section 18 of
8 chapter 68 of the general laws.

9
10 “Charitable organization” shall have the same meaning as in section 18 of chapter 68 of
11 the general laws, provided that such organization has satisfied the registration requirements of
12 section 19 of said chapter 68.

13 “Consumer,” an individual who is a resident of the commonwealth and a prospective
14 recipient of consumer goods or services or a prospective contributor to a charitable organization.

15 “Marketing or sales solicitation,” the initiation of a telephone call or message to
16 encourage the purchase or rental of, or investment in, property, goods or services, or to solicit a
17 charitable contribution, that is transmitted to a consumer, but not including a telephone call or
18 message: (i) to a consumer with that consumer’s prior express written or verbal invitation or

19 permission; (ii) by a tax-exempt nonprofit organization, or any charitable organization, provided
20 that the solicitation is conducted by a bona fide member or employee of or volunteer for such
21 organization and without the involvement of any professional solicitor or commercial co-
22 venturer as those terms are defined in section 18 of said chapter 68; (iii) by an individual or
23 organization for a noncommercial purpose, such as a poll or survey; or (iv) to a consumer in
24 response to a visit made by such consumer to an establishment selling, leasing or exchanging
25 consumer goods or services at a fixed location.

26 SECTION 2.

27 Section 5A of chapter 159C of the general laws is hereby amended in paragraph (a) by
28 striking out clauses (ii) through (iv) and inserting in place thereof the following: --

29 (ii) the correct name of the telemarketing company that employs the individual
30 telemarketer who is making the call, provided that if the individual telemarketer is employed by
31 a subcontractor hired by the telemarketing company holding the contract with the person or
32 organization desiring the sale or contribution, then the individual telemarketer shall state as his
33 or her employer the correct name of the subcontractor; (iii) the correct name of the ultimate seller
34 whose goods or services are being offered, or charitable organization for which contributions are
35 being solicited, by means of the telemarketing call; and (iv) a complete and accurate description
36 of any goods or services being offered including, but not limited to, the retail market value of the
37 goods or services. All charitable solicitations conducted by a professional solicitor or
38 commercial co-venturer, as those terms are defined in section 18 of said chapter 68, shall also
39 satisfy the disclosure requirements of section 23 of said chapter 68, subject, however, to section
40 5(b)(v) herein.

41 SECTION 3.

42 Section 5A of chapter 159C of the general laws is hereby further amended by inserting in
43 paragraph (b), after the phrase "original investment," the following: --

44 ; and (v) in the case of a professional solicitor or commercial co-venturer making a
45 telephonic sales call soliciting a charitable contribution, if a consumer asks in substance for
46 information about what amount or proportion of a contribution would be retained or received by
47 the professional solicitor or commercial co-venturer, or by the charitable organization for
48 charitable purposes, the telemarketer shall provide either (A) the guaranteed minimum
49 percentage of the gross receipts from fundraising that will be utilized exclusively for the
50 charitable purposes described in the solicitation, as stated in the contract or written agreement
51 between the professional solicitor or commercial co-venturer and the charitable organization, or
52 (B) any comparable disclosure that may be required by regulations promulgated under section 29
53 of said chapter 68.

54 SECTION 4.

55 The provisions of this law are independent and severable, and the invalidity, if any, of
56 any part or feature thereof shall not affect or render the remainder of this law invalid or
57 inoperative.