HOUSE DOCKET, NO. 1009 FILED ON: 1/14/2015

HOUSE . . . . . No. 193

The Commonwealth of Massachusetts

PRESENTED BY:

Colleen M. Garry

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 to ban robocalls.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Colleen M. Garry	*36th Middlesex*
Brian M. Ashe	*2nd Hampden*

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HOUSE . . . . . No. 193

By Miss Garry of Dracut, a petition (accompanied by bill, House, No. 193) of Colleen M. Garry and Brian M. Ashe for legislation to ban robocalls, so-called. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to ban robocalls.

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

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

Section 15. As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:-

"Consumer" as defined in section 1.

"Hands-free mobile telephone", shall have the same meaning as set forth in section l of chapter 90.

"Mobile electronic device", shall have the same meaning as set forth in section l of chapter 90.

""Mobile telephone", shall have the same meaning as set forth in section l of chapter 90.

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

13 “Robocall telephone solicitation”, a voice or text communication, whether prerecorded or
14 a facsimile, over a telephone line or wireless telephone network or via a commercial mobile
15 radio service that is a robocall telephone solicitation to a telephone subscriber for the purpose of
16 soliciting or encouraging the purchase or rental of, or investment in, property, goods, or services;
17 obtaining or providing information that will or may be used for that purpose; soliciting or
18 encouraging a telephone subscriber’s participation in any contest, sweepstakes, raffle, or lottery,
19 whether legal or illegal; or obtaining a charitable donation. “Robocall telephone solicitation”
20 shall include a political message if the message is communicated by use of an automatic dialing
21 and recorded message player.

22 “Robocall telephone solicitor”, an individual, association, corporation, partnership,
23 limited partnership, Limited Liability Company or other business entity, or a subsidiary or
24 affiliate thereof, doing business in the commonwealth who makes or causes to be made a
25 telephonic sales call.

26 All robocalls shall be prohibited in the commonwealth to any hands-free mobile
27 telephones, mobile electronic devices and mobile telephones as defined in this section.

28 This chapter shall not apply to: (1) messages from school districts to students, parents or
29 employees; (2) messages advising employees of work schedules; (3) messages on behalf of
30 correctional facilities advising victims; or (4) messages on behalf of municipalities and
31 government.

32 SECTION 16.Violations; Enforcement by Attorney General; Consumer Action;
33 Penalties; Attorney's Fees and Costs

34 (a) The attorney general may initiate proceedings relating to a knowing violation or
35 threatened knowing violation of this section. Such proceedings may include, without limitation,
36 an injunction, a civil penalty of not less than $10,000 for each knowing violation, but not less
37 than $1,500 for a knowing violation involving a consumer who is 65 years of age or older, and
38 additional relief in a court of competent jurisdiction. The attorney general may also issue
39 investigative demands and subpoenas, administer oaths and conduct hearings in the course of
40 investigating a violation of this section.

41 (b) A person who has received more than 1 unsolicited telephonic call within a 12-month
42 period by or on behalf of the same person or entity in violation of this section may: (i) bring an
43 action to enjoin the violation; (2) bring an action to recover for actual monetary loss from such
44 knowing violation or to receive not less than $10,000 in damages for such knowing violation,
45 whichever is greater; or (iii) bring both such actions

46 In a civil proceeding resulting from a transaction involving a violation of this section, the
47 prevailing party, after judgment in the trial court and exhaustion of all appeals, if any, shall be
48 awarded reasonable attorney's fees and costs from the nonprevailing party.

49 SECTION 17. Time Limitations for Actions or Proceedings

50 (a) No action or proceeding shall be brought pursuant to the section: (i) more than 5 years
51 after the person bringing the action knew or should have known of the occurrence of the alleged
52 violation; or (ii) more than 5 years after the termination of a proceeding or action arising out of
53 the same violation by the commonwealth, whichever is later.

54 (b) Sections 15 through 17, inclusive, of this chapter shall not apply to any outbound
55 telephone call that delivers a prerecorded healthcare message made by, or on behalf of, a covered
56 entity or its business associate, as those terms are defined in the HIPPA Privacy Rule, 45 CFR
57 160.103.