

# **HOUSE . . . . . No. 4180**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, April 11, 2016.

The committee on Consumer Protection and Professional Licensure to whom were referred the petition (accompanied by bill, House, No. 160) of Gailanne M. Cariddi and others for legislation to require transparency in solicitations via telephone and similar devices, the petition (accompanied by bill, House, No. 264) of John W. Scibak and Carolyn C. Dykema that telemarketers be required to use legitimate phone numbers so that consumers can directly communicate with solicitors and the petition (accompanied by bill, House, No. 271) of Theodore C. Speliotis and Carolyn C. Dykema relative to the solicitation of charitable donations for profit, reports recommending that the accompanying bill (House, No. 4180) ought to pass.

For the committee,

JENNIFER E. BENSON

**HOUSE . . . . . No. 4180**

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**The Commonwealth of Massachusetts**

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

An Act requiring transparency in telephone 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           SECTION 1. Section 1 of chapter 159C of the General Laws, as appearing in the 2014  
2 Official Edition, is hereby amended by inserting the following definitions in their appropriate  
3 alphabetically-ordered locations, and by striking out any existing definitions of the same terms:--

4                   “Charitable organization” shall have the same meaning as in section 18 of chapter  
5 68 of the General Laws, provided that such organization has satisfied the registration  
6 requirements of section 19 of said chapter 68.

7                   “Marketing or sales solicitation,” the initiation of a telephone call or message to  
8 encourage the purchase or rental of, or investment in, property, goods or services, that is  
9 transmitted to a consumer, but not including a telephone call or message: (i) to a consumer with  
10 that consumer’s prior express written or verbal invitation or permission; (ii) by a tax-exempt  
11 nonprofit organization, or any charitable organization, provided that the solicitation is conducted  
12 by a bona fide member or employee of or volunteer for such organization, or a professional  
13 solicitor or commercial co-venturer as those terms are defined in section 18 of said chapter 68;

14 (iii) by an individual or organization for a noncommercial purpose, such as a poll or survey; or  
15 (iv) to a consumer in response to a visit made by such consumer to an establishment selling,  
16 leasing or exchanging consumer goods or services at a fixed location.

17 SECTION 2. Section 4 of chapter 159C of the General Laws, as so appearing, is hereby  
18 amended by inserting after the word “device”, in line 3, the following sentence:-

19 The telephone solicitor must conduct all marketing or sales solicitation calls using a valid  
20 telephone number in which the consumer can directly communicate with the solicitor.

21 SECTION 3. Section 5A of chapter 159C of the General Laws, as so appearing, is hereby  
22 amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

23 (a) A telephone solicitor shall disclose all of the following information within the first  
24 minute of a telephonic sales call and before requesting, accepting or arranging for payment by a  
25 consumer: (i) that the purpose of the telephone call is to make a sale or solicit funds; (ii) the  
26 correct name of the telemarketing company that employs the individual telemarketer who is  
27 making the call, provided that if the individual telemarketer is employed by a subcontractor hired  
28 by the telemarketing company holding the contract with the person or organization desiring the  
29 sale, then the individual telemarketer shall state as his or her employer the correct name of the  
30 subcontractor; (iii) the correct name of the ultimate seller whose goods or services are being  
31 offered by means of the telemarketing call; and (iv) a complete and accurate description of any  
32 goods or services being offered including, but not limited to, the retail market value of the goods  
33 or services.

34 SECTION 4. Said section 5A of chapter 159C is hereby further amended by adding the  
35 following 3 paragraphs:-

36 (c) A solicitor who misrepresents themselves, either verbally or in writing, to be a police  
37 officer, fireman, teacher, doctor, nurse, emergency medical technician, clergy member, or any  
38 member of an organization for which they may have contracted with shall be subject to civil  
39 penalties pursuant to chapter 93(A) of the General Laws, or any other remedy pursuant to section  
40 8 of this chapter.

41 (d) A telephone solicitor as defined by section 1 of chapter 159C shall keep recordings of  
42 calls made or letters sent for the purpose of soliciting funds pursuant to section 18. The  
43 recordings of the phone calls shall be kept on file with the company for a period of not less than  
44 180 days. At any point during this period these recordings shall be subject to audit and inspection  
45 by the office of the attorney general.

46 (e) A telephone solicitor working pursuant to chapter 159C of the General Laws shall be  
47 subject to civil liabilities pursuant to chapter 93(A) of the General Laws for any violation of the  
48 section or any other remedy pursuant to section 8 of this chapter.

49 SECTION 6: Paragraph (c) of section 8 of chapter 159C shall be deleted.