HOUSE DOCKET, NO. 521 FILED ON: 1/18/2011

HOUSE . . . . . No. 870

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik

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 restricting use and connection of automatic dialing-announcing devices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen Kulik	*1st Franklin*
Cory Atkins	*14th Middlesex*
Jonathan Hecht	*29th Middlesex*
Benjamin B. Downing	*Berkshire, Hampshire, and Franklin*
James J. Dwyer	*30th Middlesex*
Ann-Margaret Ferrante	*5th Essex*
Colleen M. Garry	*36th Middlesex*
Anne M. Gobi	*5th Worcester*
Sarah K. Peake	*4th Barnstable*
Angelo J. Puppolo, Jr.	*12th Hampden*
John W. Scibak	*2nd Hampshire*
William Smitty Pignatelli	*4th Berkshire*

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HOUSE . . . . . No. 870

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 870) of Stephen Kulik and others for legislation to restrict callers from using certain automatic dialing devices for sending information to subscribers of telephone services. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *4730* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act restricting use and connection of automatic dialing-announcing devices.

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

The General Laws are hereby amended by inserting, after chapter 159C, the following chapter:- Chapter 159D.

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Automatic dialing-announcing device", a device that selects and dials telephone numbers and that, working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.

8 “Caller”, a person, corporation, firm, partnership, association, or legal or commercial
9 entity who attempts to contact, or who contacts, a subscriber in the commonwealth by using a
10 telephone or telephone line.

11 “Message”, any call, regardless of its content.

12 “Office”, the office of consumer affairs and business regulation.

13 “Subscriber”, a person who has subscribed to telephone service from a telephone
14 company or any other person living or residing with the subscribing person.

15 Section 2. (a) A caller shall not use or connect to a telephone line an automatic-
16 dialing device unless: (1) the subscriber has knowingly or voluntarily requested, consented to,
17 permitted or authorized receipt of the message; or (2) the message is immediately preceded by a
18 live operator who obtains the subscriber’s consent before the message is delivered.

19 (b) This chapter shall not apply to: (1) messages from school districts to students,
20 parents or employees; (2) messages to subscribers with whom the caller has maintained or had a
21 business relationship within the prior 24 months; (3) messages advising employees of work
22 schedules; (4) messages on behalf of correctional facilities advising victims; or (5) messages on
23 behalf of municipalities and government.

24 Section 3. A caller shall not use an automatic dialing-announcing device unless the
25 device is designed and operated so as to disconnect within 10 seconds after termination of the
26 telephone call by the subscriber.

27 Section 4. Where the message is immediately preceded by a live operator, the
28 operator must, within the first minute, disclose:

29 The name of the business, firm, organization, association, partnership or entity on whose
30 behalf the message is being communicated:

31 The purpose of the message

32 The identity or kind of goods or services the message is promoting; and

33 If applicable, the fact that the message intends to solicit payment or commitment of
34 funds.

35 The approximate length of the call.

36 Section 5. A caller shall not use an automatic dialing-announcing device to call a
37 subscriber between the hours of 8:00PM and 8:00AM, local time at the subscriber's location.

38 Section 6. The office shall establish and maintain a no automatic dialing-announcing
39 device message list of subscribers who do not wish to receive automatic dialing-announcing
40 device messages. The office may contract with a private vendor to establish and maintain such
41 listing provided the contract requires the vendor to provide the no automatic dialing-announcing
42 device message listing in a printed hard copy format and any other format offered at a cost that
43 does not exceed the production cost of the format offered. The office shall provide notice to
44 subscribers of the establishment of a no automatic dialing-announcing device message listing. A
45 subscriber who wishes to be included on the listing shall notify the office by calling a toll-free
46 number provided by the office, or in such manner and at such times as the office may prescribe,
47 which may include electronic notification. The office shall update such listing not less than
48 quarterly and shall make such listing available to automatic dialing-announcing device providers
49 and other persons for a fee as the office shall prescribe.

50 Section 7. Any caller who is found to have violated any provision of this chapter is
51 subject to the penalties and remedies provided in sections 8-13 of chapter 159C.

52 Section 8. The office shall establish an advisory group comprise of government entities,
53 local telecommunications companies, local automatic dialing-announcing device providers,
54 businesses, senior citizens and other community advocates to compile and promote a list of
55 educational literature to help subscribers understand their options with regard to automatic
56 dialing-announcing device calls. The office shall work with local telecommunication companies
57 to disseminate to their residential subscribers information about the availability of and
58 instructions on how to request educational literature from the office. The office shall include on
59 its internet website information that informs subscribers of their rights to be placed on the no
60 automatic dialing-announcing device messages listing and the various methods, including notice
61 to the office, of placing their names on the no automatic dialing-announcing message listing.

62 Section 9. This chapter shall not apply to any outbound telephone call that delivers a
63 prerecorded healthcare message made by, or on behalf of, a covered entity or its business
64 associate, as those terms are defined in the HIPPA Privacy Rule, 45 CFR 160.103.