

No. 2006-32

AN ACT

SB 713

Prohibiting a provider of commercial mobile service from including the dialing number of any subscriber without first obtaining the express consent of that subscriber.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Telephone Subscriber Directory Express Consent Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Commercial mobile service provider.” A provider of commercial mobile service as defined by section 332(d) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 151 et seq.), Federal Communications Commission Rules and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66, 107 Stat. 312).

“Person.” Any individual, partnership, corporation, limited liability company or other organization or any combination thereof.

Section 3. Required consent.

A commercial mobile service provider or any direct or indirect affiliate or agent of a provider or any other person doing business in this Commonwealth may not publish in a directory or provide for publication in a directory the name and telephone number of a mobile service customer in this Commonwealth without the express consent of the customer. The consent of a customer must be given by one of the following:

(1) In writing in a separate written document or in a separate distinct section within a written document that includes the customer’s signature and the date.

(2) A distinct verbal confirmation from a person sufficiently identified as the customer.

(3) On an Internet website maintained by the commercial mobile service provider or an agent acting on behalf of the provider. The Internet website shall provide a separate screen or, if it is within another screen, there shall be a separate section of the screen that includes the disclosure.

(4) Other verifiable means utilizing the customer’s handset.

A subscriber who provides express prior consent under this section may revoke that consent at any time. A commercial mobile service provider shall comply with the subscriber’s request to opt out within a reasonable period of

time, not to exceed 60 days. If under the subscriber's calling plan the subscriber may be billed for receiving unsolicited calls or text messages, the provider's form shall include a disclosure, which shall be unambiguous and legible, that by consenting to have the subscriber's dialing number sold or licensed as part of a list of subscribers or be included in a publicly available directory, the subscriber may incur additional charges for receiving unsolicited calls or text messages.

Section 4. Sale of list.

Before a customer consents under section 3, a commercial mobile service provider must disclose to the customer in writing or verbally, as appropriate, that by consenting the customer agrees to have the customer's telephone number sold or licensed as part of a list of customers and the customer's telephone number may be included in a publicly available directory.

Section 5. Charges.

A subscriber shall not be charged for making the choice to not be listed in a directory.

Section 6. Applicability.

This act shall not apply to the provision of telephone numbers to the following parties for the following purposes:

(1) To a collection agency exclusively for the collection of unpaid debts owed by the customer to the commercial mobile service provider.

(2) (i) To any law enforcement agency, fire protection agency, public health agency, city or county emergency services planning agency or private for-profit agency operating under contract with and at the direction of one or more of these agencies, for the exclusive purpose of responding to a 911 call or communicating an imminent threat to life or property.

(ii) Any information or records provided to a private for-profit agency pursuant to this section shall be held in confidence by that agency and by any individual employed by or associated with that agency. This information or these records shall not be open to examination for any purpose not directly connected with the administration of the services specified in this paragraph.

(3) To a Federal, State or local agency, board or commission, pursuant to lawful process issued under Federal or State law.

(4) To a telephone corporation providing service between service areas for the provision to the subscriber of telephone service between service areas or to third parties for the limited purpose of providing billing services.

(5) To a telephone corporation to effectuate a customer's request to transfer the customer's assigned telephone number from the customer's existing provider of telecommunications services to a new provider of telecommunications services.

Section 7. Unfair or deceptive act or practice.

A violation of this act shall be deemed to be an unfair or deceptive act or practice in violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law. The Office of Attorney General shall have exclusive authority to bring an action under the Unfair Trade Practices and Consumer Protection Law for a violation of this act.

Section 8. Liability.

No telephone corporation, nor any official or employee thereof, shall be subject to criminal or civil liability for the release of customer information as authorized by section 6.

Section 9. Effective date.

This act shall take effect in 60 days.

APPROVED—The 1st day of May, A.D. 2006.

EDWARD G. RENDELL