

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

SENATE BILL 1254

AN ACT

AMENDING SECTIONS 44-1271, 44-1272, 44-1272.01, 44-1273, 44-1278 AND 44-1281,
ARIZONA REVISED STATUTES; RELATING TO TELEPHONE SOLICITATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-1271, Arizona Revised Statutes, is amended to
3 read:

4 44-1271. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Consumer" means a person who is solicited by a seller or
7 solicitor.

8 2. "Licensed associated person of a securities, commodities or
9 investments broker" means any associated person registered or licensed by the
10 national association of securities dealers, a self-regulatory organization as
11 defined in the securities exchange act of 1934 (15 United States Code ~~section~~
12 ~~SECTION~~ 78a through 7811) or an official or agency of this state or of any
13 other state of the United States.

14 3. "Licensed securities commodities or investments broker, dealer or
15 investment advisor" means a person licensed or registered as a securities
16 commodities or investments broker, dealer or investment advisor by the
17 securities and exchange commission, the national association of securities
18 dealers, a self-regulatory organization as defined in the securities exchange
19 act of 1934 (15 United States Code ~~section~~ ~~SECTION~~ 78a through 7811) or an
20 official or agency of this state or of any other state of the United States.

21 4. "Manager" means a person who supervises the work of a solicitor.

22 5. "Merchandise" means objects, wares, goods, commodities,
23 intangibles, real estate, securities or services.

24 6. "Person" means:

25 (a) A natural person or his legal representative.

26 (b) A partnership, a limited liability company, a limited liability
27 partnership or a domestic or foreign corporation.

28 (c) A company, trust, business entity or association.

29 (d) An agent, employee, salesman, partner, officer, director, member,
30 stockholder, associate or trustee.

31 (e) Any other legal entity or any group associated in fact although
32 not a legal entity.

33 7. "Premium" means any gift, bonus, prize, award or other incentive or
34 inducement to purchase merchandise.

35 8. "Principal" means an owner, ~~OR~~ OR an officer of a corporation or
36 limited liability company, a general partner of a partnership, a sole
37 proprietor of a sole proprietorship, a partner of a limited liability
38 partnership, a trustee of a trust and any other individual who controls,
39 manages or supervises a telephone sales operation.

40 9. "Prize" means anything offered or purportedly offered and given or
41 purportedly given to a person by chance. Chance exists if a person is
42 guaranteed to receive an item and at the time of the offer or purported offer
43 the seller or solicitor does not identify the specific item that the person
44 will receive.

1 10. "Prize promotion" means a sweepstakes or other game of chance or an
2 oral or written express or implied representation that a person has won, has
3 been selected to receive or may be eligible to receive a prize or purported
4 prize.

5 11. "Recovery service" means any business or other practice in which a
6 person represents or implies that the person will recover or assist in
7 recovering for a fee any amount of money that a consumer has provided to a
8 seller pursuant to a telephone solicitation.

9 12. "Seller" means a person who, directly or through a solicitor, seeks
10 orders for the sale of merchandise by means of telephone solicitation ~~under~~
11 ~~any of the following circumstances:~~

12 ~~(a) The person initiates contact by telephone with a consumer and~~
13 ~~represents or implies that:~~

14 ~~(i) A consumer who buys merchandise will receive additional~~
15 ~~merchandise, the same as or different from the type of merchandise~~
16 ~~purchased, without any additional charge, except for actual postage or~~
17 ~~common carrier charges.~~

18 ~~(ii) A consumer will receive or has a chance or opportunity to receive~~
19 ~~a premium.~~

20 ~~(iii) The person is offering to sell the services of a recovery~~
21 ~~service.~~

22 ~~(iv) The person is offering to make a loan, to arrange or assist in~~
23 ~~arranging a loan or to assist in providing information that may lead to~~
24 ~~obtaining a loan unless no payment of any kind is made until the loan~~
25 ~~proceeds are disbursed to the borrower.~~

26 ~~(v) The consumer will receive a credit card if the consumer pays a fee~~
27 ~~for the card before receiving the card OR INITIATES OR RECEIVES TELEPHONE~~
28 ~~CALLS TO PROVIDE OR ARRANGE TO PROVIDE GOODS OR SERVICES TO CONSUMERS IN~~
29 ~~EXCHANGE FOR PAYMENT. THIS ACTIVITY INCLUDES:~~

30 ~~(b)~~ (a) ~~The~~ Solicitation by telephone ~~is~~ made by the person in
31 response to inquiries from a consumer generated by a notification or
32 communication sent or delivered to the consumer that represents or implies
33 that:

34 (i) The consumer has been specially selected in any manner to receive
35 the notification or communication or the offer contained in the notification
36 or communication.

37 (ii) The consumer will receive a premium if the consumer calls the
38 person.

39 (iii) If the consumer purchases merchandise from the person, the
40 consumer will also receive additional or other merchandise, the same as or
41 different from the type of merchandise purchased, without any additional
42 charge or for a price that the person represents or implies is less than the
43 regular price of the merchandise.

44 (iv) The person is offering for sale the services of a recovery
45 service.

1 (v) The person is offering to make a loan, to arrange or assist in
2 arranging a loan or to assist in providing information that may lead to
3 obtaining a loan unless no payment of any kind is made until the loan
4 proceeds are disbursed to the borrower.

5 (vi) The consumer will receive a credit card if the consumer pays a
6 fee for the card before receiving the card.

7 ~~(c)~~ (b) ~~The~~ Solicitation by telephone ~~is~~ made by the person in
8 response to inquiries generated by advertisements on behalf of the person
9 that represent or imply that:

10 (i) The person is offering to sell the services of a recovery service.

11 (ii) The person is offering to make a loan, to arrange or assist in
12 arranging a loan or to assist in providing information that may lead to
13 obtaining a loan unless no payment of any kind is made until the loan
14 proceeds are disbursed to the borrower.

15 (iii) The consumer will receive a credit card if the consumer pays a
16 fee for the card before receiving the card.

17 13. "Solicitor" means a person who uses a telephone to seek sales of
18 merchandise on behalf of a seller or uses a telephone to verify sales for a
19 seller.

20 ~~14. "Telephone solicitation sale" means a sale of merchandise by a~~
21 ~~seller.~~

22 Sec. 2. Section 44-1272, Arizona Revised Statutes, is amended to read:
23 44-1272. Telephone seller; registration

24 A. A seller shall file a verified registration statement with the
25 secretary of state before the seller solicits ~~any consumer from a location in~~
26 ~~this state or~~ any consumer located in this state. Each principal of the
27 seller shall sign the registration statement, have the signature notarized
28 and file the statement with the secretary of state along with the annual
29 registration fee prescribed by section 44-1275. The registration statement
30 expires on June 30 of each year and shall be annually renewed by completing a
31 new registration statement within thirty days before expiration.

32 B. ~~Except as provided in subsection D of this section,~~ If, ~~before the~~
33 expiration of a seller's annual registration, there is a change in any of the
34 information required by subsection C of this section, within ten days of the
35 change the seller shall file a supplemental statement with the secretary of
36 state, except that a seller shall only update quarterly any changes in
37 solicitors hired by the seller.

38 C. Each registration statement shall contain all of the following
39 information:

40 1. The true legal name of the seller.

41 2. The name under which the seller is doing business or intends to do
42 business.

43 3. The seller's business form and state of organization.

44 4. If the seller is a corporation or limited liability company, a copy
45 of its articles of incorporation and bylaws and amendments to the bylaws. If

1 the seller is a partnership or limited liability partnership, a copy of the
2 partnership agreement. If the seller is operating under a fictitious
3 business name, the location where the fictitious name has been registered.

4 5. The complete street address of the physical location of the
5 principal place of business of the seller, the complete street address of all
6 other locations from which the seller will be conducting business and all
7 telephone numbers for telephones at these locations.

8 6. For each principal, ~~AND~~ manager ~~and solicitor~~, the true legal
9 name, residence address, telephone number and date of birth and a clear and
10 legible copy of the current driver license or valid government issued photo
11 identification card.

12 7. For each manager, the address of the business location for which
13 the manager is responsible.

14 8. The name and address of the seller's agent in this state who is
15 authorized to receive service of process in this state.

16 9. A copy of the bond filed with the state treasurer pursuant to
17 section 44-1274.

18 10. Whether a principal or manager:

19 (a) Has been convicted or pleaded no contest to a felony or
20 misdemeanor involving moral turpitude or a violation of this article.

21 (b) Has been held liable in a civil action, either by final judgment
22 or by entry of a stipulated judgment, if the civil action alleged fraud,
23 embezzlement, racketeering, fraudulent conversion or misappropriation of
24 property or a violation of this article or the use of untrue or misleading
25 representations in an attempt to sell or dispose of real or personal property
26 or the use of unfair, unlawful or deceptive business practices.

27 (c) Is subject to a currently effective injunction or restrictive
28 order relating to a business activity as a result of an action brought by a
29 public agency or department, including an action affecting a vocational
30 license. The statement shall include the name of the court, the date of the
31 conviction, the judgment, order or injunction and, if applicable, the name of
32 the governmental agency that filed the action resulting in the conviction,
33 judgment, order or injunction.

34 11. A copy of any:

35 (a) Script, outline or presentation the seller will require or suggest
36 that a solicitor use, except that if the seller does not require or suggest a
37 script, outline or presentation, a statement that no such document is
38 required or suggested.

39 (b) Sales information and literature provided by the seller to a
40 solicitor or described by the seller for use by the solicitor, including
41 scripts, outlines, presentations, information on how to conduct telephone
42 sales, sample instructions, sample closings, product information and contest
43 or premium award information.

44 (c) Sales information and any other literature provided by the seller
45 to a consumer in connection with any solicitation.

1 D. If a seller expressly ~~or impliedly~~ represents OR IMPLIES to any
2 consumer, directly or through a solicitor, that the consumer is or may be
3 eligible to receive any premium, the seller shall submit with the
4 registration statement another statement setting forth for each premium
5 mentioned:

6 1. A description of the premium.

7 2. The value or worth of the premium and the basis for the valuation.

8 3. All terms and conditions a consumer must satisfy in order to
9 receive the premium.

10 4. The odds of being able to receive the premium, and if the odds are
11 not calculable in advance, the factors used in calculating the odds.

12 5. If the consumer will receive fewer than all of the premiums
13 described by the seller:

14 (a) The manner in which the seller decides which premium the consumer
15 will receive.

16 (b) The odds of being able to receive each premium, and if the odds
17 are not calculable in advance, the factors used in calculating the odds.

18 (c) The name and address of each person who within the past twelve
19 months has received the premium having the greatest value and the
20 premium with the smallest odds of being received.

21 E. If the seller expressly or impliedly represents to any consumer,
22 directly or through a solicitor, that the seller can or may be able to make a
23 loan, arrange a loan, assist in arranging a loan or assist in providing
24 information that may lead to obtaining a loan, the seller shall submit with
25 the registration statement another statement setting forth:

26 1. For the previous twenty-four months, the names and addresses of any
27 person who lent money to:

28 (a) Consumers who responded to the solicitations of the seller's
29 predecessor or the seller's officers or owners or those persons having
30 present management responsibilities or to companies with which they were
31 associated.

32 (b) The seller's predecessor or the seller's officers or owners or
33 those persons having present management responsibilities or to those
34 companies with which they were associated for them to lend to consumers who
35 responded to solicitations.

36 2. For the twelve months after the date of the registration, the names
37 and addresses of all persons who informed the seller that they may be able to
38 lend money to consumers solicited by the seller or to the seller for the
39 seller to lend to consumers who respond to the seller's representations that
40 the seller can make a loan, arrange a loan, assist in arranging a loan or
41 assist in providing information that can lead to obtaining a loan.

42 3. Copies of all contracts between the seller and lenders or
43 prospective lenders who may lend money:

44 (a) To the seller to lend to consumers who, in conjunction with the
45 seller's business, respond to the seller's representations that the seller

1 can make a loan, arrange a loan, assist in arranging a loan or assist in
2 providing information that can lead to obtaining a loan.

3 (b) Directly to consumers to whom the seller may represent that it can
4 arrange or assist in providing information that can lead to obtaining a loan.

5 F. If any change is made to any script, outline, presentation, sales
6 information or literature to be used by a seller during any solicitation, the
7 seller shall submit the new or revised material before it is used.

8 G. Compliance with the registration and filing requirements of this
9 article by a seller does not constitute an approval or endorsement by this
10 state of the seller's registration documents or conduct.

11 Sec. 3. Section 44-1272.01, Arizona Revised Statutes, is amended to
12 read:

13 44-1272.01. Limited registration; penalty; violation;
14 classification

15 A. Any seller who is listed in section 44-1273, subsection B shall
16 file with the secretary of state a limited registration statement on a form
17 prescribed by the secretary of state before the seller solicits ~~any consumer~~
18 ~~from a location in this state or~~ any consumer located in this state.

19 B. If there is a change in any of the information required by
20 subsection C of this section, within ten days after the change the seller
21 shall file a supplemental statement with the secretary of state.

22 C. Each limited registration statement shall include all of the
23 following information:

24 1. The true legal name of the seller.

25 2. All of the names under which the seller is doing business or
26 intends to do business.

27 3. The complete street address of the physical location of the
28 principal place of business of the seller and the telephone number for the
29 location.

30 4. The name and address of the seller's agent who is authorized to
31 receive service of process. Alternatively, the seller may designate the
32 secretary of state to receive service of process.

33 5. The reason the seller is exempt from full registration.

34 6. The name and address of the person who files the limited
35 registration statement.

36 D. A seller who files a limited registration statement pursuant to
37 this section is not required to pay a filing fee and is not required to file
38 and maintain a bond.

39 E. Compliance with the limited registration prescribed in this section
40 does not constitute an approval or endorsement by this state of the seller's
41 limited registration or conduct.

42 F. The secretary of state may send by certified mail a notice of
43 failure to file a limited registration STATEMENT pursuant to this section to
44 any seller who is listed in section 44-1273, subsection B and who fails to
45 comply with the limited registration prescribed in this section. The seller

1 shall comply with the limited registration prescribed in this section within
2 thirty days after receiving the notice from the secretary of state and shall
3 pay a late registration penalty of twenty-five dollars. If the seller does
4 not comply with this subsection, the seller is guilty of a class 3
5 misdemeanor.

6 Sec. 4. Section 44-1273, Arizona Revised Statutes, is amended to read:
7 44-1273. Limited exemptions

8 A. The following sellers are not required to register and, except for
9 section 44-1278, subsection B, are exempt from this article:

10 1. A person acting within the scope of a license issued under
11 title 20.

12 2. A person who is registered with the secretary of state pursuant to
13 section 44-6552 or who is exempt from registration pursuant to section
14 44-6553.

15 3. A person making telephone solicitations without the intent to
16 complete and who does not complete the sales presentation during the
17 telephone solicitation but completes the sales presentation at a later
18 face-to-face meeting between the solicitor and the consumer provided that the
19 later face-to-face meeting is not for the purpose of collecting the payment
20 or delivering any item purchased.

21 4. A person who after making a telephone contact with a consumer sends
22 the consumer descriptive literature and does not require payment before the
23 consumer's review of the descriptive literature and the person is not
24 conducting a solicitation involving any of the following:

25 (a) The sale of an investment or an opportunity for an investment that
26 is not registered with any state or federal authority.

27 (b) A prize promotion or premium.

28 (c) A recovery service.

29 5. A person or solicitor for a person who operates a retail business
30 establishment under the same name as the name used in the solicitation of
31 sales by telephone, if on a continuing basis all of the following apply:

32 (a) Merchandise is displayed and offered for sale or services are
33 offered for sale and provided at the person's business establishment.

34 (b) At least fifty per cent of the person's business involves the
35 buyer obtaining the merchandise at the person's business establishment.

36 (c) The person holds a transaction privilege tax license pursuant to
37 title 42, chapter 5.

38 6. A person or solicitor for a person soliciting another business if
39 all of the following occur:

40 (a) At least fifty per cent of the person's dollar volume consists of
41 repeat sales to existing businesses.

42 (b) The person does not conduct a prize promotion that requires or
43 implies that to win a consumer must pay money or purchase merchandise.

44 (c) Neither the person nor any of the person's principals has within
45 twenty years been convicted in any state of a felony or crime of moral

1 turpitude, breach of trust, fraud, theft, dishonesty or violation of
2 telephone solicitation laws, been subject to a final judgment in a civil
3 action involving fraud, deceit or misrepresentation or been subject to an
4 administrative order involving fraud, deceit, misrepresentation or any
5 violation of telephone solicitations laws of any agency of this state,
6 another state, the federal government, a territory of the United States or
7 another country.

8 7. A person or solicitor on behalf of a person who solicits sales by
9 periodically publishing and delivering a catalog to consumers if all of the
10 following apply:

11 (a) The catalog contains a written description or illustration of each
12 item offered for sale and the price of each item offered for sale.

13 (b) The catalog includes the business address or home office address
14 of the person.

15 (c) The catalog includes at least twenty-four pages of written
16 material and illustrations.

17 (d) The catalog is distributed in more than one state and has an
18 annual circulation by mail of at least two hundred fifty thousand.

19 B. The following sellers shall file a limited registration statement
20 pursuant to section 44-1272.01 and, except for section 44-1278, are exempt
21 from this article:

22 1. A person acting within the scope of a license issued under title 6
23 or 32 or by the corporation commission pursuant to this title, except persons
24 licensed under title 6, chapter 13.

25 2. If soliciting within the scope of the license, any licensed
26 securities, commodities or investments broker, ~~OR~~ OR dealer or investment
27 advisor or any licensed associated person of a securities, commodities or
28 investments broker, ~~OR~~ OR dealer or investment advisor.

29 3. An issuer or a subsidiary of an issuer that has a class of
30 securities that is subject to section 12 of the securities exchange act of
31 1934 (15 United States Code sections 78a through 7811) and that is either
32 registered or exempt from registration under paragraph (A), (B), (C), (E),
33 (F), (G) or (H) or subsection (g) (2) of section 12 of the act. A subsidiary
34 of an issuer that qualifies for exemption under this paragraph is not exempt
35 unless at least sixty per cent of the voting power of the subsidiary's shares
36 is owned by the qualifying issuer or issuers.

37 4. A person certificated or regulated by the corporation commission
38 pursuant to title 40, chapter 2 or a subsidiary of that person or a federal
39 communications commission licensed cellular telephone company or radio
40 telecommunication services provider.

41 5. A person making telephone solicitations for a newspaper of general
42 circulation, a magazine or a licensed or franchised cable television system.

43 6. An issuer or subsidiary of an issuer that is subject to
44 registration under chapter 12, article 6 or 7 of this title or that is exempt

1 from registration under section 44-1843, **SUBSECTION A**, paragraph 1, 2, 3, 4,
2 5, 7 or 9.

3 7. A person making telephone solicitations for the sale or purchase of
4 books, recordings, videocassettes and similar goods through a membership
5 group or club regulated by the federal trade commission or through a
6 contractual plan or arrangement such as a continuity plan, subscription
7 arrangement, series arrangement or single purchase under which the seller
8 ships goods to a consumer who has consented in advance to receive those goods
9 and the recipient is given the opportunity to review goods for at least seven
10 days and to receive a full refund for return of undamaged goods.

11 8. A person or solicitor for a person when soliciting previous
12 customers, if all of the following apply:

13 (a) The person is not offering to sell or selling a security that is
14 not registered with any state or federal authority.

15 (b) The person makes the solicitation under the same name as the name
16 used to sell merchandise to the customer previously.

17 (c) The person does not operate a recovery service.

18 (d) The person does not conduct a prize promotion that requires a
19 consumer to, or implies that to win a consumer must, pay money or purchase
20 merchandise.

21 (e) The person has not, or any of its principals have not, within
22 twenty years been convicted in any state of a felony or a crime of moral
23 turpitude, breach of trust, fraud, theft, dishonesty or **A** violation of
24 telephone solicitation laws, been subject to a final judgment in a civil
25 action involving fraud, deceit or misrepresentation or been subject to an
26 administrative order involving fraud, deceit, misrepresentation or any
27 violation of telephone ~~solicitations~~ **SOLICITATION** laws of any agency of this
28 state, another state, the federal government, a territory of the United
29 States or another country.

30 9. A person making telephone solicitations exclusively for the purpose
31 of the sale of telephone answering services to be provided by that person or
32 that person's employer.

33 10. Any bank holding company, bank, financial institution, trust
34 company, savings and loan association, credit union, mortgage banker or
35 broker, consumer lender or insurer that is licensed or supervised by an
36 official or agency of this state, any other state or the United States,
37 including any parent, subsidiary or affiliate of these institutions.

38 11. A person providing telemarketing sales service continuously for at
39 least five years under the same ownership and control that derives
40 seventy-five per cent of its gross telemarketing sales revenues from
41 contracts with persons exempted by this section. A seller using an exempt
42 telemarketing sales service is not exempt unless otherwise qualifying for an
43 exemption under this section.

44 C. On request by the secretary of state, the director of the
45 department of insurance shall provide a current list in a mutually acceptable

1 electronic format to the secretary of state of the requested licensees
2 described in subsection A, paragraph 1 of this section that includes all of
3 the following information:

4 1. The true legal name of the seller.

5 2. All of the names under which the seller is doing business or
6 intends to do business.

7 3. The complete street address of the physical location of the
8 principal place of business of the seller and the telephone number for the
9 location.

10 4. The name and address of the seller's agent who is authorized to
11 receive service of process **IN THIS STATE**.

12 D. In any civil proceeding alleging a violation of this article, the
13 burden of proving an exemption or an exception from a definition is on the
14 person claiming the exemption or exception. In any criminal proceeding in
15 which a violation of this article is alleged, the burden of producing
16 evidence to support a defense based on an exemption or an exception from a
17 definition is on the person claiming the exemption or exception.

18 E. Any person or solicitor exempted in part from this article by this
19 section shall not make or submit a charge to a consumer's credit card account
20 or a consumer's checking, savings, share or similar account unless any of the
21 following apply:

22 1. The person provides that the consumer may receive a full refund for
23 the return of undamaged and unused goods or a cancellation of services by
24 providing notice to the person within seven days after the date that the
25 consumer receives the merchandise and the person processes:

26 (a) A full refund within thirty days after the date that the person
27 receives the returned merchandise from the consumer.

28 (b) A full refund within thirty days after the purchaser of services
29 cancels an order for the services or a pro rata refund for any services not
30 yet performed for the consumer.

31 2. The person provides the consumer with a signed copy of a written
32 contract that includes the person's name, address and business telephone
33 number and that fully describes the merchandise offered by the person, the
34 total price to be charged by the person and any terms or conditions affecting
35 the sale.

36 3. The person is an organization that is registered with the secretary
37 of state pursuant to section 44-6552 or that is exempt from registration
38 pursuant to section 44-6553.

39 Sec. 5. Section 44-1278, Arizona Revised Statutes, is amended to read:

40 44-1278. Unlawful practice; powers of attorney general;
41 cumulative remedies

42 A. It is an unlawful practice pursuant to section 44-1522 for a seller
43 to make or authorize to any consumer any reference to the seller's compliance
44 with this article other than on inquiry by the consumer.

1 B. It is an unlawful practice pursuant to section 44-1522 for any
2 seller or solicitor who conducts a telephone solicitation in this state to do
3 any of the following:

4 1. Use telephone equipment that blocks the caller identification
5 function on the telephone or telephone equipment of the telephone number
6 dialed so that the telephone number of the caller is not displayed on the
7 telephone or telephone equipment that is capable of displaying the telephone
8 number of the caller.

9 2. Initiate an outbound telephone call to a person if that person has
10 previously stated a desire not to receive outbound telephone calls made by or
11 on behalf of the seller whose goods or services are being offered. A seller
12 or solicitor is not liable under this paragraph or paragraph 3 if all of the
13 following apply:

14 (a) The seller or solicitor has established and implemented written
15 procedures to comply with this paragraph.

16 (b) The seller or solicitor has trained the seller's or solicitor's
17 personnel according to the written procedures prescribed in subdivision (a)
18 of this paragraph.

19 (c) The seller or the solicitor acting on behalf of the
20 seller establishes and maintains a no call list comprised of all persons who
21 request not to be contacted and keeps all do not call requests for at least
22 ten years.

23 (d) The initial outbound call or any subsequent outbound call made by
24 the seller or solicitor is the result of an error.

25 3. Intentionally make or cause to be made any unsolicited telephone
26 sales call to any mobile or telephone paging device.

27 4. Make a telephone call to any residential telephone using an
28 artificial or prerecorded voice to deliver a message unless the call is
29 initiated for emergency purposes or the call is made with the prior express
30 consent of the called party.

31 5. Use any automatic terminal equipment that uses a random or
32 sequential number generator unless the equipment excludes calls to the
33 following telephone numbers:

34 (a) Emergency telephone numbers, including 911, of any hospital,
35 medical physician, health care facility, poison control center, fire
36 protection facility or law enforcement agency.

37 (b) Any guest room or patient room of a hospital, health care
38 facility, elderly care home or similar establishment.

39 (c) A paging service, a cellular telephone service, a specialized
40 mobile radio service or any service for which the called party is charged for
41 the call.

42 (d) The telephone numbers maintained on a no call list established
43 pursuant to paragraph 2 of this subsection.

1 C. IT IS AN UNLAWFUL PRACTICE PURSUANT TO SECTION 44-1522 FOR A SELLER
2 TO INITIATE ANY OUTBOUND CALL PURSUANT TO THIS ARTICLE OTHER THAN BETWEEN
3 8:00 A.M. AND 5:00 P.M. ON MONDAY THROUGH FRIDAY, OR BETWEEN 10:00 A.M. AND
4 4:00 P.M. ON SATURDAY WITHOUT PRIOR PERMISSION FROM THE PERSON RECEIVING THE
5 OUTBOUND CALL.

6 ~~C.~~ D. Failure to comply with this article is an unlawful practice
7 pursuant to section 44-1522. The attorney general may investigate and take
8 appropriate action as prescribed by chapter 10, article 7 of this title.

9 ~~D.~~ E. The provisions of this article are in addition to all other
10 causes of action, remedies and penalties available to this state.

11 ~~E.~~ F. The attorney general may bring an action in federal court in
12 accordance with 15 United States Code sections 6101 through 6108.

13 Sec. 6. Section 44-1281, Arizona Revised Statutes, is amended to read:
14 44-1281. Duties of secretary of state

15 The secretary of state shall:

16 1. Prescribe and publish the forms and adopt the rules necessary to
17 carry out this article.

18 2. Refer to the attorney general or county attorney for investigation
19 any matter which the secretary of state has reason to believe constitutes a
20 violation of this article.

21 3. Preserve for five years from the date of filing all information
22 required to be filed pursuant to this article, after which the information
23 shall be destroyed. This information is public information and is open to
24 public inspection.

25 4. COLLECT DATA FOR THE FORMATION OF GUIDELINES TO ESTABLISH A NO CALL
26 LIST OF PERSONS WHO DO NOT WISH TO RECEIVE OUTBOUND TELEPHONE SOLICITATION
27 CALLS. THE GUIDELINES SHALL INCLUDE THE METHOD OF FUNDING THE NO CALL LIST
28 AND PROVIDE EXEMPTIONS TO THE NO CALL LIST PROVISIONS FOR NONPROFIT
29 ORGANIZATIONS, POLITICAL CAMPAIGNS AND ESTABLISHED BUSINESS RELATIONSHIPS.
30 THE SECRETARY OF STATE SHALL ESTABLISH THE NO CALL LIST GUIDELINES BY
31 DECEMBER 31, 2001.