

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1034  
Committee Substitute Favorable 4/23/09  
Senate Commerce Committee Substitute Adopted 6/30/09

Short Title: Allow Recorded Phone Messages/Public Safety.

(Public)

Sponsors:

Referred to:

April 6, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW AUTOMATIC DIALING AND RECORDED MESSAGE PLAYERS  
3 TO BE USED TO MAKE UNSOLICITED TELEPHONE CALLS TO PROTECT THE  
4 PUBLIC HEALTH, SAFETY, OR WELFARE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 75-104 reads as rewritten:

7 "§ 75-104. Restrictions on use of automatic dialing and recorded message players.

8 (a) Except as provided in this section, no person may use an automatic dialing and  
9 recorded message player to make an unsolicited telephone call.

10 (b) Notwithstanding subsection (a) of this section, a person may use an automatic  
11 dialing and recorded message player to make an unsolicited telephone call only under one or  
12 more of the following circumstances:

13 (1) All of the following are satisfied:

14 a. The person making the call is any of the following:

15 1. A tax-exempt charitable or civic organization.

16 2. A political party or political candidate.

17 3. A governmental official.

18 4. An opinion polling organization, radio station, television  
19 station, cable television company, or broadcast rating service  
20 conducting a public opinion poll.

21 b. No part of the call is used to make a telephone solicitation.

22 c. The person making the call clearly identifies the person's name and  
23 contact information and the nature of the unsolicited telephone call.

24 (2) Prior to the playing of the recorded message, a live operator complies with  
25 G.S. 75-102(c), states the nature and length in minutes of the recorded  
26 message, and asks for and receives prior approval to play the recorded  
27 message from the person receiving the call.

28 (3) The unsolicited telephone call is in connection with an existing debt or  
29 contract for which payment or performance has not been completed at the  
30 time of the unsolicited telephone call, and both of the following are  
31 satisfied:

32 a. No part of the call is used to make a telephone solicitation.

33 b. The person making the call clearly identifies the person's name and  
34 contact information and the nature of the unsolicited telephone call.

35 (4) The unsolicited telephone call is placed by a person with whom the  
36 telephone subscriber has made an appointment, provided that the call is



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1 conveying information only about the appointment, or by a utility, telephone  
2 company, cable television company, satellite television company, or similar  
3 entity for the sole purpose of conveying information or news about network  
4 outages, repairs or service interruptions, and confirmation calls related to  
5 restoration of ~~service~~.service, and both of the following are satisfied:

6 a. No part of the call is used to make a telephone solicitation.

7 b. The person making the call clearly identifies the person's name and  
8 contact information and the nature of the unsolicited telephone call.

9 (5) The person plays the recorded message in order to comply with section 16  
10 C.F.R. Part 310.4(b)(4) of the Telemarketing Sales Rule.

11 (6) The unsolicited telephone call is placed by, or on behalf of, a health insurer  
12 as defined in G.S. 58-51-115(a)(2) from whom the telephone subscriber or  
13 other covered family member of the health insurer receives health care  
14 coverage or the administration of such coverage, provided that the call is  
15 conveying information related to the telephone subscriber or family  
16 member's health care, preventive services, medication or other covered  
17 ~~benefits~~.benefits, and both of the following are satisfied:

18 a. No part of the call is used to make a telephone solicitation.

19 b. The person making the call clearly identifies the person's name and  
20 contact information and the nature of the unsolicited telephone call.

21 (7) No part of the call is used to make a telephone solicitation, the person  
22 making the call clearly identifies the person's contact information and the  
23 nature of the unsolicited telephone call, and the sole purpose of the  
24 unsolicited telephone call is to protect the public health, safety, or welfare,  
25 by informing the telephone subscriber of any of the following:

26 a. That the telephone subscriber has purchased a product that is subject  
27 to a recall by the product's manufacturer, distributor or retailer, or by  
28 the federal Consumer Product Safety Commission or another  
29 government agency or department with legal authority to recall the  
30 product which is the subject of the call, due to safety or health  
31 concerns, provided that (i) there is a reasonable basis to believe that  
32 the telephone subscriber has purchased the product, and (ii) the  
33 message complies with any requirements imposed by any  
34 government agency instituting the recall.

35 b. That the telephone subscriber may have received a prescription or  
36 over-the-counter medication that is subject to a recall by the product's  
37 manufacturer, distributor or retailer, or by the federal Food and Drug  
38 Administration or another government agency or department with  
39 legal authority to recall the product which is the subject of the call,  
40 due to safety or health concerns, provided that (i) the call and its  
41 message comply with the requirements of the Health Insurance  
42 Portability and Accountability Act (P.L. 104-191) (HIPAA) and any  
43 corresponding regulations pertaining to privacy, (ii) there is a  
44 reasonable basis to believe that the telephone subscriber has  
45 purchased or received the medication, and (iii) the message complies  
46 with any requirements imposed by the government agency or product  
47 manufacturer, distributor, or retailer instituting the recall.

48 c. That the telephone subscriber has not picked up a filled prescription  
49 drug for which a valid prescription is on file with a pharmacy  
50 licensed pursuant to G.S. 90-85.21 and the telephone subscriber  
51 requested that the prescription be filled, provided that the call and its

1 message comply with the requirements of the Health Insurance  
2 Portability and Accountability Act (P.L. 104-191) (HIPAA) and any  
3 corresponding regulations pertaining to privacy."

4 **SECTION 2.** This act is effective when it becomes law.