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Submitted by:
 Bob O'Steougey
 for Cox Communications
 RE: AB 232

FEDERAL AND STATE TELEMARKETING LAWS
 (Tracking do-not-call list requirements only)
 January 30, 2003

State	Code Section	Do-not-call list		EBR Exemptor	Other Important Exemptions	Notes
		Firm	Govt			
1 FTC	16 C.F.R. § 310.	X	X	X	Banks; common carriers engaged in common carrier activities.	Revised Telemarketing Sales Rule ("TSR") not only establishes national do-not-call ("DNC") list, but also further prohibits unauthorized billing, constrains abandonment of calls, and requires telemarketers to transmit caller ID information. EBR exemption applies to solicitors who have sold goods or services to customer within 18 months of solicitation.
2 FCC	47 C.F.R. §§ 1200, 1201.	X		X		FCC proceeding to amend the Telephone Consumer Protection Act ("TCPA") regulations to, among other things, create national DNC list, is currently ongoing.
3 Alabama	ALA. CODE §§ 8-19a-1 et seq.		X	X	Cable TV operators; financial institutions; newspapers; periodicals; magazines; telephone and utility companies.	LECs are not only required to keep the do-not-call list of residential customers, but also place a "black dot" by their names in the telephone directory if they are on the list. EBR exemption applies to solicitors who have sold to customer within 24 months of solicitation.
Alaska	ALASKA STAT. §§ 45.50.471 et seq.			X	Exempt from telemarketing registration; cable TV operators; financial institutions; newspapers; telephone and utility companies.	EBR exemption applies to solicitors who have sold to customer within 36 months of solicitation.
Arkansas	ARK. CODE ANN. §§ 4-95-101 to 4-95-108; 4-99-101 to 4-99-112.		X	X	Financial institutions; newspapers; telephone and utility companies regulated by state PSC.	DNC list requirements set to go into effect on April 1, 2003.
California	CAL. BUS. & PROF. CODE §§ 17511, 17590, 17591, 17592.		X	X	Cable TV operators; newspapers; magazines; entities regulated by PSC.	

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7	Colorado COLO. REV. STAT. §§ 6-1-901 et seq.		X	X		EBR exemption applies to solicitors who have sold to customer within 18 months of solicitation.
8	Connecticut CONN. GEN. STAT. §§ 42-110a, 42-284 to 42-288.		X	X	Telephone companies for directory compiling purposes only. Newspapers.	
9	Florida FLA. STAT. chs. 501.059, 501.601 to 501.626.		X	X		
10	Georgia GA. CODE ANN. §§ 10-5B-3, 10-1-370, 10-1-390, 46-5-27.		X	X		
11	Hawaii HAW. REV. STAT. §§ 445-184, 468-1 to 468-5, 481P-1 to 481P-8.	X			Providers of telecommunications and cable TV operators; financial institutions. Sellers of newspapers, periodicals, books, musicals or video recordings; federally or state licensed entities; isolated transactions with no repeat pattern.	
12	Idaho IDAHO CODE §§ 48-1001 to 1010.		X	X		
13	Illinois 30 ILL. COMP. STAT. 105/5.570; 815 ILL. COMP. STAT. 413/1 to 413/25.	X	FTC	X*	Registration exemption for: financial institutions and telecommunications companies.	*The Illinois law states that compliance with Section 310.4(b) of the FTC's rules (which includes the EBR exemption) constitutes compliance with Illinois law. An existing customer is one who entered into a transaction with the seller within 18 months of the solicitation or opened a credit/discount/debit account which the customer has not terminated.
14	Indiana IND. CODE § 24-4.7		X		Newspapers (but only if call is made by volunteer or employee of newspaper).	

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15 Kansas	KAN. STAT. ANN. § 50-670.		DMA	X		Sellers must subscribe to the national do-not-call list maintained by the Direct Marketing Association ("DMA"). EBR exemption applies to solicitors who have sold product to customer within 36 months of solicitation.
16 Kentucky	KY. REV. STAT. ANN. §§ 367.46951 et seq.		X	X	Cable TV operators; newspapers; magazines; periodicals; merchants regulated by PSC; merchants regulated by FCC; publicly traded corporation.	
17 Louisiana	LA. REV. STAT. ANN. §§ 45:821 to 45:830, 45:844.		X	X		EBR includes not only current business relationship, but also a prior relationship that was terminated or lapsed within six months of the phone solicitation.
18 Maine	ME. REV. STAT. ANN. tit. 10, §§ 1498 to 1499; tit. 32, § 14716.		DMA		Sellers with a permanent place of business in Maine	Sellers must obtain, on a semiannual basis, updated national do-not-call list maintained by the DMA.
19 Massachusetts	MASS. GEN. LAWS ch. 159C.		X	X	Persons or telephone companies compiling information for compiling, preparing and/or distributing directories.	EBR exemption applies to solicitors who have sold to customer or maintained an account within 24 months of solicitation.
20 Minnesota	MINN. STAT. § 325E.		X	X		
21 Missouri	MO. REV. STAT. §§ 407.1095 to 407.1110.		X	X	Any entity over which a federal agency has regulatory authority, the entity is required to be licensed by such authority, and the entity is required by law or rule to develop and maintain DNC list.	

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22 Nebraska	NEB. REV. STAT. §§ 86-223 to 86-257.	X		X		EBR means "a prior or existing relationship formed by a voluntary two-way communication between a person and a residential or business telephone subscriber, with or without an exchange of consideration..."
23 New York	N.Y. GEN. BUS. LAW § 399-z.		X	X		
24 Oklahoma	OKLA. STAT. tit. 20, § 775B.1		X	X		EBR exemption applies to solicitors who have sold to customer within 24 months of solicitation.
25 Oregon	OR. REV. STAT. §§ 646.551 et seq.		X	X	Cable TV operators; newspapers; magazines; financial institutions; entity regulated by PUC.	
26 Pennsylvania	PA STAT. ANN. tit. 73, §§ 2242 et seq.		X	X	Any entity over which a federal or PA state agency has regulatory authority, the entity is required to be licensed by such authority, and the entity is acting within the scope of the business for which it is licensed; newspapers, magazines, and periodicals.	EBR exemption applies to solicitors who have sold to customer within 12 months of solicitation.
27 Rhode Island	R.I. CODE R. § 5-61	X		X	Cable TV operators; person or affiliate whose business is regulated by PUC; financial institutions.	With respect to maintenance of a DNC list, an entity is in compliance with Rhode Island law if it has established a DNC list that complies with either FCC or FTC regulations.

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28 Tennessee	TENN. CODE ANN. § 47-18-101 et seq.		X	X		With respect to maintenance of a DNC list, an entity is in compliance with Tennessee law if it has established a DNC list that complies with either FCC or FTC regulations. EBR exemption applies to entities soliciting "existing customers" or to customers with whom the soliciting entity has had a prior relationship within 12 months of solicitation.
29 Texas	TEX. BUS. & COM. CODE ANN. § 43.001 et seq.		X	X		EBR is not defined. Sellers must subscribe to the national do-not-call list maintained by the DMA.
30 Vermont	VT. STAT. ANN. tit. 9, § 2464.		DMA	X	Any entity that is otherwise registered or licensed with, or regulated by, the Vermont Secretary of State, Public Service Board, Dept. of Banking, insurance, securities, health care administration, Dept. of Taxes, or financial institution.	EBR is not defined. Sellers must subscribe to the national do-not-call list maintained by the DMA.
31 Wisconsin	Wis STAT. ANN. § 100.20 et seq.		X	X		EBR exemption applies to solicitations of a customer who is a current client of the solicitor. Sellers must subscribe to the national do-not-call list maintained by the DMA.
32 Wyoming	WYO. STAT. ANN. § 40-12-301 et seq.		DMA	X		EBR exemption applies to solicitations of a customer who is a current client of the solicitor. Sellers must subscribe to the national do-not-call list maintained by the DMA.

PROVIDED BY BCB

STATE "DO NOT CALL" LAWS

STATE	List Administered by:	Compliance enforced by:	Fees to Consumers:
ALABAMA	Public Service Commission	Public Service Commission	None
ALASKA	Local phone companies	Attorney General's Office	Varies by phone company
ARKANSAS	Attorney General's Office	Attorney General's Office	\$5 Initial fee; \$5 Renewal
CALIFORNIA	Attorney General's Office	Attorney General's Office	\$1 for three years
COLORADO	Public Utilities Commission	Attorney General's Office - Consumer Protection Unit	None
CONNECTICUT	Direct Marketing Association	Dept. of Consumer Protection	None
FLORIDA	Dept of Agriculture and Consumer Services	Dept of Agriculture and Consumer Services	\$10 initial fee; \$5 renewal
GEORGIA	Public Service Commission	Governor's Office of Consumer Affairs	\$5 for two years
IDAHO	Attorney General's Office	Attorney General's Office	\$10/three years; \$5 renewal
ILLINOIS	No State list - Telemarketer's maintain individual lists	Commerce Commission	\$5 enrollment fee; additional 5 years at no charge
INDIANA	Attorney General's Office	Attorney General's Office	None
KANSAS	Attorney General's Office	Attorney General's Office	None (listing expires 5 years)
KENTUCKY	Attorney General's Office	Attorney General's Office	None
LOUISIANA	Public Service Commission	Public Service Commission	\$5 for five years
MINNESOTA	Department of Commerce	Department of Commerce	None
MISSOURI	Attorney General's Office	Attorney General's Office	None
NEW YORK	Consumer Protection Board (outside vendor)	State Consumer Protection Board	None
OKLAHOMA	Attorney General's Office	Attorney General's Office	None
OREGON	Attorney General's Office (outside vendor)	Attorney General's Office/ Dept of Justice	\$6.50 initial fee; \$3 renewal
PENNSYLVANIA	Attorney General's Office	Attorney General's Office	None
TENNESSEE	Tennessee Regulatory Authority	Tennessee Regulatory Authority	None
TEXAS	Attorney General's Office and PUC (outside vendor)	Attorney General's Office - Consumer Protection Division and PUC	\$2.25 per phone number
VERMONT	Attorney General Consumer Protection Section (outside vendor - DMA)	Attorney General's Office - Consumer Protection Section	Determined by outside vendor
WISCONSIN	Bureau of Consumer Protection (outside vendor)	Bureau of Consumer Protection	None
WYOMING	No State list - use DMA list	Attorney General's Office - Consumer Protection Division and PUC	None

2/27/03 to President Bush

*One Hundred Eighth Congress
of the
United States of America
AT THE FIRST SESSION*

Begun and held at the City of Washington on Tuesday, the seventh day of January, two thousand and three

An Act

To authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a 'do-not-call' registry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Do-Not-Call Implementation Act'.

**SEC. 2. TELEMARKETING SALES RULE; DO-NOT-CALL
REGISTRY FEES.**

The Federal Trade Commission may promulgate regulations establishing fees sufficient to implement and enforce the provisions relating to the 'do-not-call' registry of the Telemarketing Sales Rule (16 CFR 310.4(b)(1)(iii)), promulgated under the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.). Such regulations shall be promulgated in accordance with section 553 of title 5, United States Code. Fees may be collected pursuant to this section for fiscal years 2003 through 2007, and shall be deposited and credited as offsetting collections to the account, Federal Trade Commission--Salaries and Expenses, and shall remain available until expended. No amounts shall be collected as fees pursuant to this section for such fiscal years except to the extent provided in advance in appropriations Acts. Such amounts shall be available for expenditure only to offset the costs of activities and services related to the implementation and enforcement of the Telemarketing Sales Rule, and other activities resulting from such implementation and enforcement.

SEC. 3. FEDERAL COMMUNICATIONS COMMISSION DO-NOT-CALL REGULATIONS.

Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall issue a final rule pursuant to the rulemaking proceeding that it began on September 18, 2002, under the Telephone Consumer Protection Act (47 U.S.C. 227 et seq.). In issuing such rule, the Federal Communications Commission shall consult and coordinate with the Federal Trade Commission to maximize consistency with the rule promulgated by the Federal Trade Commission (16 CFR 310.4(b)).

SEC. 4. REPORTING REQUIREMENTS.

(a) **REPORT ON REGULATORY COORDINATION-** Within 45 days after the promulgation of a final rule by the Federal Communications Commission as required by section 3, the Federal Trade Commission and the Federal Communications Commission shall each transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which shall include--

- (1) an analysis of the telemarketing rules promulgated by both the Federal Trade Commission and the Federal Communications Commission;
- (2) any inconsistencies between the rules promulgated by each such Commission and the effect of any such inconsistencies on consumers, and persons paying for access to the registry; and
- (3) proposals to remedy any such inconsistencies.

(b) **ANNUAL REPORT-** For each of fiscal years 2003 through 2007, the Federal Trade Commission and the Federal Communications Commission shall each transmit an annual report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which shall include--

- (1) an analysis of the effectiveness of the 'do-not-call' registry as a national registry;
- (2) the number of consumers who have placed their telephone numbers on the registry;
- (3) the number of persons paying fees for access to the registry and the amount of such fees;
- (4) an analysis of the progress of coordinating the operation and enforcement of the 'do-not-call' registry with similar registries established and maintained by the various States;
- (5) an analysis of the progress of coordinating the operation and enforcement of the 'do-not-call' registry with the enforcement activities of the Federal Communications Commission pursuant to the Telephone Consumer Protection Act (47 U.S.C. 227 et seq.); and
- (6) a review of the enforcement proceedings under the Telemarketing Sales Rule (16 CFR 310), in the case of the Federal Trade Commission,

and under the Telephone Consumer Protection Act (47 U.S.C. 227 et seq.),
in the case of the Federal Communications Commission.

Speaker of the House of Representatives.

Vice President of the United States

and President of the Senate.

END