



HOUSE OF REPRESENTATIVES

H. No. 7321

BY REPRESENTATIVES ABAYA, CASTELO, YAP (V.), SANDOVAL, BELARO, NOGRALES (K.A.), SY-ALVARADO, NAVA, RELAMPAGOS, VILLARICA, DALIPE, PRIMICIAS-AGABAS, ARENAS, PIÑEDA, NUÑEZ-MALANYAON, BERTIZ, LAOGAN, PICHAY, ROA-PUNO, AUMENTADO, LACSON, HOFER, GONZALES (A.P.), REVILLA, RODRIGUEZ (M.), MATUGAS, VIOLAGO, ROMUALDO, VELARDE, ABU, GONZALES (A.D.), SALCEDA, DEL MAR, DIMAPORO (M.K.), LOBREGAT, AMATONG, ARCILLAS, BATAOIL, CAMINERO, CHAVEZ, DEFENSOR, DELOSO-MONTALLA, ESCUDERO, GO (M.), GONZALEZ, MONTORO, ROQUE (H.), ROQUE (R.), SAVELLANO, SUANSING (E.), TEJADA, TUPAS, YU, SUAREZ, LOPEZ (M.L.), CASTRO (F.L.), GATCHALIAN, ANTONINO, BIAZON AND BRAVO (A.), PER COMMITTEE REPORT NO. 644

AN ACT ESTABLISHING THE "NO CALL AND NO TEXT REGISTRATION" SYSTEM, PROVIDING PENALTIES FOR VIOLATIONS THEREOF

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

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CHAPTER I

TITLE AND DECLARATION OF POLICY

SECTION 1. *Short Title.* – This Act shall be known as the "No Call and No Text Registration System Act."

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State:

1 (a) To ensure the protection of the interest of mobile phone
2 subscribers *vis-à-vis* unsolicited commercial speech;

3 (b) To ensure the establishment of a standards of conduct for
4 business and industry in sending text messages to subscribers;

5 (c) To promote the fundamental right of a mobile phone
6 service subscriber to privacy; and

7 (d) To ensure the protection of subscribers from unwanted
8 calls and texts inducing the purchase of goods or services and
9 other forms of solicitation.

10 CHAPTER II

11 DEFINITION OF TERMS, MECHANISMS FOR THE ESTABLISHMENT
12 OF A "NO CALL AND NO TEXT REGISTRATION" SYSTEM

13 SEC. 3. *Definition of Terms.* – As used in this Act:

14 (a) *Caller or sender* refers to any person, and in the case of
15 a juridical person, an employee or agent, who initiates a call or
16 a text message for the purpose of making an outbound or
17 unsolicited call or text message;

18 (b) *Consent* refers to a written contract signed by both the
19 subscriber and a representative of the Public Telecommunications
20 Entity (PTE) indicating that the subscriber opted to receive such
21 commercial or promotional advertisement or push message;

22 (c) *Negative option* refers to a feature which shall enable a
23 person to stop receiving any call and text from a caller and/or
24 sender;

25 (d) *No Call Register* refers to the listing of Philippine
26 telephone numbers to which a specified voice message shall not
27 be sent;

1 (e) *No Text Register* refers to the listing of Philippine
2 telephone numbers to which a specified text message shall not
3 be sent;

4 (f) *Outbound call or text* refers to a telephone call or text
5 message initiated by any caller or sender to induce the purchase of
6 goods and services;

7 (g) *Prize* refers to anything offered, or purportedly offered,
8 and given, or purportedly given, to a subscriber by chance;

9 (h) *Subscribers* refer to clients of telecommunications
10 companies, whether under a prepaid or postpaid plan;

11 (i) *Text* refers to any message sent via short message
12 service (SMS);

13 (j) *Upselling* refers to soliciting the purchase of goods or
14 services following an initial transaction during a single telephone
15 call or text message; and

16 (k) *Unsolicited call or text* refers to a call or text message
17 which is not initiated by the recipient of the call or message such
18 as upselling, surveys, awarding of a prize when the recipient did
19 not join or subscribe to any game or activity, or solicitation by
20 any nonprofit and charitable institution, whether or not the call
21 or text message induces the purchase of goods or services.

22 SEC. 4. *Subscriber's Consent Prior to Sending Promotional*
23 *Advertisements or Messages.* -- Commercial or promotional
24 advertisements, or push messages may only be sent to a subscriber
25 who has given prior consent or has specifically opted-in to
26 receive said messages without additional cost. All commercial or
27 promotional advertisements, or push messages must contain

1 an accurate description of the message, identity and contact
2 number of the PTE who sent or caused to send the message.

3 SEC. 5. *Establishment of No Call and No Text Registers.* –
4 Pursuant to the foregoing, the National Privacy Commission,
5 hereinafter referred to as the Privacy Commission, shall establish
6 a No Call Register and a No Text Register: *Provided, That*, the
7 identity of persons registered shall be kept highly confidential:
8 *Provided, further, That* only the telephone numbers of registered
9 persons may be accessed from the registers.

10 SEC. 6. *Registration in the No Call and No Text Registers.* –
11 A subscriber may manage and limit the outbound and unsolicited
12 calls and text messages that he may receive by registering a
13 telephone number in the No Call and No Text Registers upon
14 presentation of a government identification and proof of exclusive
15 ownership over a particular telephone number, and upon payment
16 of a fee as determined by the Privacy Commission: *Provided, That*
17 the registration of mobile numbers of a subscriber below eighteen
18 (18) years of age may be done by his parent or legal guardian.

19 Such registration shall be valid for a period of one (1) year,
20 subject to renewal.

21 SEC. 7. *Removal of Numbers.* – Telephone numbers
22 registered in the No Call and No Text Registers shall not be
23 changed nor removed except upon the request of the owner in
24 writing. Invalid or disconnected telephone numbers may be changed
25 or removed upon adequate validation by the Privacy Commission.

26 SEC. 8. *Opt-out Mechanism.* – PTEs shall provide a
27 mechanism for subscribers to opt-out any time from the broadcast

1 messaging service at no cost to the subscriber or recipient. The
2 opt-out mechanism must enable the subscriber or recipient to
3 indicate the decision not to receive any commercial or promotional
4 advertisement or push message from the PTE.

5 SEC. 9. *Negative Option Requirement.* – A person whose
6 number is not registered in the No Call and No Text Registers
7 may manage and limit outbound and unsolicited calls or text
8 messaging through the negative option feature.

9 All mobile phone callers or text message senders shall
10 set up a negative option which shall be available to the recipient
11 immediately upon answering the call, or at the beginning of the
12 text after providing the required information under Section 10 of
13 this Act.

14 Upon selection of the negative option feature, the caller or
15 sender shall not make any further step to persuade the recipient
16 and immediately end the call or stop sending any text message
17 to the recipient. The recipient shall report and register the name
18 and the number of the person, company or organization who
19 made the call or sent the message to the No Call and No Text
20 Registers in order to make the caller or sender liable for
21 violation of this Act for any subsequent call or text message.
22 This prohibition shall apply to the caller or sender regardless
23 of the goods or services offered and the telephone number used
24 to contact the recipient.

25 SEC. 10. *Requirement for a Caller or Sender.* – No person
26 shall make an outbound or unsolicited call or text message
27 unless such person:

1 (a) Registers and thereafter, obtains a certified true copy of
2 the No Call and No Text Registers from the Privacy Commission:
3 *Provided*, That the Privacy Commission shall have the power
4 to set reasonable fees for the reproduction of these registries;
5 and

6 (b) Discloses the full name of the caller or sender, the
7 company, or organization for whose benefit the call or text
8 message is being made, and the telephone number of a fixed line
9 where such identity can be established and verified.

10 SEC. 11. *Responsibility of Caller or Sender.* – It shall be the
11 responsibility of any caller or sender to register under Section 10
12 hereof and to get information on the numbers which are registered
13 in the No Call and No Text Registers. Possession of a certified
14 true copy of the No Call and No Text Registers prior to the date
15 the call is made or text message is sent shall be considered
16 *prima facie* evidence of knowledge on the part of the caller or
17 sender.

18 CHAPTER III

19 PROHIBITED ACTS, FINES AND PENALTIES

20 SEC. 12. *Prohibited Acts.* – Non-registration of the caller
21 or sender as required under Section 10 of this Act shall be
22 considered a violation of this Act.

23 Except otherwise provided in this Act, no person, whether
24 natural or juridical, shall make:

25 (a) An unsolicited call to any telephone number listed in the
26 No Call Register; and

1 (b) An unsolicited text to any telephone number listed in
2 the No Text Register.

3 The PTE who shall give the special access numbers of
4 their subscribers to commercial or marketing agencies without
5 the latter's consent shall be held liable under this Act.

6 The use of an automatic dialer or any electronic device
7 that automatically or randomly contacts telephone numbers is
8 prohibited.

9 Any violation of this section shall constitute the crime of
10 unauthorized processing as defined and penalized under Sections
11 25(a) and 25(b) of the Data Privacy Act of 2012, without prejudice
12 to a further fine that may be imposed by the Privacy Commission
13 as provided for in this Act.

14 SEC. 13. *Exceptions.* - This Act shall not apply to a caller
15 or sender under the following circumstances:

16 (a) In representation of a public agency who is not promoting
17 any of its programs for commercial purpose;

18 (b) Action undertaken in a personal capacity;

19 (c) Action prompted by a necessity to respond to an
20 emergency that threatens the life, health or safety of any
21 individual;

22 (d) When the sole purpose of the call or text is to:

23 (1) Facilitate, complete or confirm a transaction that the
24 recipient of the message has previously agreed to enter with the
25 sender;

1 (2) Provide warranty information, product recall information
2 or safety or security information with respect to a product or service
3 purchased or used by the recipient of the message;

4 (3) Deliver goods or services, including product updates or
5 upgrades, that the recipient message is entitled to receive under
6 the terms of the transaction that the recipient previously agreed
7 to enter with the sender;

8 (e) When with reference to an ongoing purchase or use by
9 the recipient of goods or services offered by the sender, the sole
10 purpose of the call or text is to:

11 (1) Notify a change in its terms or features;

12 (2) Notify a change in the standing or status of the recipient
13 of the message; or

14 (3) Provide, at regular periodic intervals, account balance
15 information or other type of account statement with respect to a
16 subscription, membership, account, loan or comparable ongoing
17 commercial relationship;

18 (f) When its sole purpose is to conduct market research or
19 market survey;

20 (g) When sent to an organization other than an individual
21 acting in a personal or domestic capacity, for any purpose of
22 receiving organization;

23 (h) When done by duly recognized charities, religious
24 institutions, or educational institutions which are not considered
25 as telemarketers, nonprofit organizations, and other exempt
26 organizations under appropriate rules and regulations; or

1 (i) As may be identified from time to time by the Privacy
2 Commission.

3 SEC. 14. *Filing of Complaint.* - Complainants may
4 initially file their complaints with the PTE, which shall act on
5 all complaints received within fifteen (15) days from receipt of
6 such complaints.

7 Complainants who are not satisfied with the action of the
8 PTE may bring the matter to the Privacy Commission.

9 SEC. 15. *Liability of Caller or Sender.* - A caller or sender
10 who commits any violation under Sections 4, 9, and 10 of this
11 Act shall be held solely liable. If the caller or sender acted
12 for the benefit of another person, natural or juridical, and with
13 authority from the latter, they shall be both held separately
14 liable for the violation. However, if the caller or sender acted for
15 the benefit of another person, natural or juridical, without
16 authority from the latter, the former shall be held solely
17 liable.

18 Any caller or sender who calls or sends a text message
19 to a subscriber who is in the No Call and No Text Registers
20 shall be fined for each call or text.

21 SEC. 16. *Penalties.* - Without prejudice to administrative
22 sanctions that may be imposed by the Privacy Commission,
23 or to civil or criminal liability, any person found to be in
24 violation of any provision of this Act or its implementing rules
25 and regulations, shall be imposed the following penalties:

26 (a) For a juridical person, a fine of not less than Fifty
27 thousand pesos (P50,000.00) nor more than One hundred thousand

1 pesos (P100,000.00) for each violation: *Provided*, That its officers
2 directly responsible for the violation shall suffer the penalty
3 of fine of not less than Fifty thousand pesos (P50,000.00) but
4 not more than One hundred thousand pesos (P100,000.00); or

5 (b) For a natural person, a fine of not less than Fifty
6 thousand pesos (P50,000.00) but not more than One hundred
7 thousand pesos (P100,000.00).

8 **SEC. 17. Fees and Charges.** - The Privacy Commission
9 shall, within one hundred (100) days from the promulgation of
10 this Act, develop and promulgate a schedule of fees and charges
11 it may collect from entities who shall access the No Call and No
12 Text Registers.

13 CHAPTER IV

14 FINAL PROVISIONS

15 **SEC. 18. Appropriations.** - The Privacy Commission shall
16 immediately include in its programs the implementation of
17 this Act, the initial funding of which shall be charged against
18 its current year's appropriations. Thereafter, such sums as may be
19 necessary for the continued implementation of this Act shall be
20 included in the annual General Appropriations Act.

21 Proceeds from penalties herein imposed shall accrue to the
22 General Fund.

23 **SEC. 19. Implementing Rules and Regulations.** - Within
24 ninety (90) days from the effectivity of this Act, the Privacy
25 Commission shall promulgate the necessary rules and regulations
26 for the effective implementation of this Act.

1 SEC. 20. *Separability Clause.* - If any part or provision
2 of this Act shall be held unconstitutional or invalid, other
3 provisions hereof that are not affected thereby shall continue
4 to be in full force and effect.

5 SEC. 21. *Repealing Clause.* - All other laws, decrees,
6 executive orders, proclamations and administrative regulations,
7 or parts thereof inconsistent herewith are hereby repealed or
8 modified accordingly.

9 SEC. 22. *Effectivity.* - This Act shall take effect fifteen (15)
10 days after its publication in the *Official Gazette* or in any newspaper
11 of general circulation.

Approved,

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