

HOUSE BILL NO. 6307

June 30, 2022, Introduced by Reps. Manoogian, Garza, Puri, Weiss, Scott, Pohutsky, Glanville, Young, Koleszar, Morse, Brenda Carter, Tyrone Carter, Brabec, Ellison, Sowerby, Anthony, LaGrand and Neeley and referred to the Committee on Commerce and Tourism.

A bill to prescribe the rights and duties of parties to telephone solicitation sales; to regulate certain telephone solicitation; to provide for the powers and duties of certain state governmental officers and entities; to prohibit certain conduct; and to prescribe civil sanctions and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "telephone solicitation
2 act".

3 Sec. 2. As used in this act:

1 (a) "ADAD" or "automatic dialing and announcing device" means
2 any device or system of devices that is used, whether alone or in
3 conjunction with other equipment, for the purpose of automatically
4 selecting or dialing telephone numbers.

5 (b) "Caller identification service" means a service or device
6 designed to provide the use of the service or device with the
7 telephone number of, or other information regarding the origination
8 of, a telephone communication. Caller identification service
9 includes automatic number identification.

10 (c) "Charitable organization" means a benevolent, educational,
11 philanthropic, humane, patriotic, or public safety organization of
12 persons that solicits or obtains contributions solicited from the
13 public for charitable or purported charitable purposes. Charitable
14 organization does not include a duly constituted religious
15 organization.

16 (d) "Contribution" means a promise, grant, or payment of money
17 or property of any kind or value, including a promise to pay,
18 except payments by members of an organization for membership fees,
19 dues, fines, or assessments, or for services rendered to individual
20 members, if membership in the organization confers a bona fide
21 right, privilege, professional standing, honor, or other direct
22 benefit, other than the right to vote, elect officers, or hold
23 offices, and except money or property received from a governmental
24 authority or foundation restricted as to use.

25 (e) "Do-not-call list" means the national Do-Not-Call Registry
26 maintained by the Federal Trade Commission.

27 (f) "Emergency telephone number" includes, but is not limited
28 to, a 9-1-1 number and an emergency number of a hospital, medical
29 physician or service office, health care facility, suicide or

1 domestic violence prevention center, poison control center, or fire
2 protection or law enforcement agency.

3 (g) "Existing customer" means an individual who has purchased
4 goods or services from or has made a contribution to a charitable
5 organization to the person on whose behalf the telephone
6 solicitation was initiated within the 12 months before the
7 telephone communication.

8 (h) "Express verifiable authorization" means any of the
9 following:

10 (i) A prior written authorization or confirmation.

11 (ii) A prior electronic authorization or confirmation.

12 (iii) A prior oral authorization recorded by the telephone
13 solicitor.

14 (iv) A prior confirmation through an independent third party.

15 (i) "Lead generation" means the sourcing, sale, subscription,
16 leasing, renting, distribution, purchase, wholesaling, or transfer
17 of a list of telephone numbers utilized or intended to be utilized
18 for telephone solicitations.

19 (j) "Low-income worker" means an employee who receives annual
20 wages from the employer of the employee, excluding overtime wages,
21 at a rate less than 138% of the federal poverty level guidelines
22 for a family of 5 published annually in the Federal Register by the
23 United States Department of Health and Human Services under its
24 authority to revise the poverty line under 42 USC 9902.

25 (k) "Person" means an individual, partnership, corporation,
26 limited liability company, association, organization, governmental
27 entity, or other legal entity.

28 (l) "Political organization" means a candidate or committee, as
29 those terms are defined in section 3 of the Michigan campaign

1 finance act, 1976 PA 388, MCL 169.203, or a political party
2 qualified to be on the general election ballot under section 560a
3 of the Michigan election law, 1954 PA 116, MCL 168.560a.

4 (m) "Residential telephone subscriber" or "subscriber" means
5 an individual residing in this state who has a residential,
6 wireless, or VoIP telephone service.

7 (n) "Telephone communication" means a communication via a
8 telephone, including, but not limited to, any of the following:

9 (i) A voice communication, including, but not limited to, those
10 made by use of an automatic dialing and announcing device, a
11 recorded message, in whole or in part, or VoIP.

12 (ii) Transmission of a text message, a graphic message using
13 short message service, an image, a photograph, or a multimedia
14 message service, including those transmitted via mobile
15 application.

16 (o) "Telephone solicitation" means, except as provided in
17 subdivision (p), a telephone communication made for any of the
18 following:

19 (i) For the purpose of encouraging the recipient to purchase,
20 rent, receive, or invest in goods or services or make a
21 contribution to a charitable organization.

22 (ii) For the purpose of encouraging the recipient to provide
23 personal information, including, but not limited to, identity,
24 financial, or preferences information, to defraud or wrongfully
25 obtain anything of value.

26 (iii) For the purpose of encouraging the recipient to accept or
27 participate in any employment, whether temporary or permanent,
28 contracting, investment, or other income opportunity, to defraud or
29 wrongfully obtain anything of value.

1 (iv) For the purpose of encouraging the recipient to accept a
2 prize promotion.

3 (v) For the purpose of encouraging the recipient or a member
4 of the recipient's family to avoid liability, legal or otherwise,
5 to defraud or wrongfully obtain anything of value.

6 (vi) On behalf of a political organization.

7 (p) Telephone solicitation does not include any of the
8 following:

9 (i) A telephone communication to a residential telephone
10 subscriber with that subscriber's express verifiable authorization.

11 (ii) A telephone communication to an existing customer of the
12 person on whose behalf the telephone communication is made, unless
13 the existing customer is a consumer who has requested to not
14 receive telephone communications from or on behalf of that person
15 under section 17(f).

16 (iii) A telephone communication made consistent with and not in
17 violation of any federal or state law relating to debt collection.

18 (iv) A telephone communication to a business telephone number,
19 unless the business has requested that it not receive telephone
20 communications from or on behalf of that person under section
21 17(f).

22 (q) "Telephone solicitor" means a person that makes, or causes
23 to be made, a telephone solicitation within this state from within
24 or outside of this state.

25 (r) "VoIP" means a type of telephone communication service
26 utilizing voice over internet protocol or otherwise utilizing the
27 internet to generate, send, or receive telephone communications.

28 (s) "Vulnerable individual" means an individual who is 75
29 years of age or older or who possesses a disability as that term is

1 defined in section 103 of the persons with disabilities civil
2 rights act, 1976 PA 220, MCL 37.1103.

3 (t) "Vulnerable telephone number" means any of the following:

4 (i) An emergency telephone number.

5 (ii) A telephone number of a hospital, medical physician or
6 service office, health care facility, or health care provider.

7 (iii) A telephone number of a governmental entity.

8 (iv) A telephone number of a school or educational facility.

9 Sec. 3. A person shall not make a telephone solicitation using
10 a recorded message in whole or in part.

11 Sec. 5. (1) A telephone solicitor shall not make a telephone
12 solicitation to a residential telephone subscriber whose home or
13 wireless telephone number is on the most current version of the do-
14 not-call list. This section does not apply to either of the
15 following:

16 (a) A telephone solicitation made on behalf of a charitable
17 organization, but only if all of the following apply:

18 (i) The telephone solicitor is either a volunteer working under
19 the direct supervision of an employee of the charitable
20 organization or an employee of the charitable organization.

21 (ii) The telephone solicitor who made the telephone call
22 immediately discloses both of the following:

23 (A) The solicitor's true first and last name.

24 (B) The name, address, and telephone number of the charitable
25 organization.

26 (b) A telephone solicitation made on behalf of a political
27 organization.

28 (2) A person shall not include the telephone number of a
29 residential telephone subscriber that is on the most current

1 version of the do-not-call list in a lead generation.

2 Sec. 7. (1) At the beginning of a telephone solicitation, the
3 organization or other person on whose behalf the call was initiated
4 shall ensure that the telephone solicitor states the telephone
5 solicitor's true first and last name and the full name, address,
6 and telephone number of the organization or other person on whose
7 behalf the call was initiated.

8 (2) The organization or other person described in subsection
9 (1) shall ensure that an individual is available to answer the
10 telephone number provided under subsection (1) at any time during
11 traditional business hours between 9 a.m. and 5 p.m. local time at
12 the subscriber's residence.

13 (3) The organization or other person described in subsection
14 (1) shall ensure that the individual answering the telephone number
15 under subsection (2) provides a residential telephone subscriber
16 who calls that telephone number with information to describe the
17 purpose and operations of the organization or other person on whose
18 behalf the telephone solicitation was made and with information to
19 describe the purpose of the telephone solicitation described in
20 subsection (1).

21 (4) A telephone solicitor shall not do any of the following:

22 (a) Block, restrict, circumvent, or otherwise interfere with a
23 subscriber's caller identification service so that the telephone
24 number of the telephone solicitor is not displayed properly on the
25 caller identification service of the subscriber.

26 (b) Display, or cause to be displayed, a fictitious or
27 misleading name or telephone number, or to otherwise misrepresent
28 the location of origin of a telephone solicitation or the identity
29 of the telephone solicitor, on a subscriber's caller identification

1 service.

2 (c) Use a third party to display, or cause to be displayed, a
3 fictitious or misleading name or telephone number, or to otherwise
4 misrepresent the location of origin of a telephone solicitation or
5 the identity of the telephone solicitor, on a subscriber's caller
6 identification service.

7 (d) Use a telephone number associated with a direct inward
8 dialing or direct dial-in system or use a telephone number
9 otherwise purchased, leased, licensed, or rented from a person, for
10 any telephone solicitation that misrepresents the location of
11 origin of a telephone solicitation or the identity of the telephone
12 solicitor, or otherwise violates this act.

13 (5) Subsection (4) does not create liability for a carrier or
14 VoIP whose action is undertaken for the purpose of complying with a
15 wireless local number portability requirement promulgated by the
16 Federal Communications Commission.

17 Sec. 9. (1) A person shall not do any of the following:

18 (a) Use an ADAD for a telephone solicitation that otherwise
19 violates this act.

20 (b) Use an ADAD for a telephone solicitation unless the list
21 of numbers from which the ADAD selects telephone numbers excludes
22 both of the following:

23 (i) Vulnerable telephone numbers.

24 (ii) Telephone numbers of subscribers who are on the most
25 current version of the do-not-call list.

26 (2) Subsection (1) does not apply to a telephone solicitation
27 to which any of the following apply:

28 (a) The telephone solicitation is made to a subscriber with
29 that subscriber's express verifiable authorization.

1 (b) The telephone solicitation is made to an existing customer
2 of the person on whose behalf the telephone communication is made,
3 unless the existing customer is a consumer who has requested to not
4 receive telephone communications from or on behalf of that person
5 under section 17(f).

6 (c) The telephone solicitation is made by a representative of
7 an entity utilizing an emergency telephone number.

8 (d) The telephone solicitation is made by a representative of
9 a school or educational facility if the subscriber is an employee,
10 student, or student's guardian or family member of the school or
11 educational facility.

12 (e) The telephone solicitation is made consistent with and not
13 in violation of any federal or state law relating to debt
14 collection.

15 Sec. 11. (1) A telephone solicitor may not transfer a
16 telephone solicitation that has reached a subscriber to 1 or more
17 persons if the telephone solicitation otherwise violates this act.

18 (2) A person shall not provide substantial assistance or
19 support to another person or a telephone solicitor if the person
20 knows, should know, or avoids knowing that the other person or
21 telephone solicitor is engaged in any method, act, or practice that
22 violates this act.

23 Sec. 13. (1) A contract made pursuant to a telephone
24 solicitation must satisfy all of the following requirements:

25 (a) The contract must be reduced to writing and signed by the
26 subscriber.

27 (b) The contract must contain the name, address, and business
28 telephone number of the seller, the total price of the contract,
29 and a detailed description of the goods or services being sold.

1 (c) The description of goods or services as stated in the
2 contract must be the same as the description principally used in
3 the telephone solicitation.

4 (d) The contract must contain, in bold, conspicuous type
5 immediately preceding the signature the words "You are not
6 obligated to pay any money unless you sign this contract and return
7 it to the seller."

8 (e) The contract may not exclude from its terms any oral or
9 written representations made by the telephone solicitor to the
10 subscriber in connection with the transaction.

11 (2) A contract made under a telephone solicitation is not
12 valid and enforceable against a consumer unless the contract
13 complies with this section.

14 (3) This section does not apply to either of the following:

15 (a) A sale in which all of the following apply:

16 (i) No prior payment is made to a seller.

17 (ii) An invoice accompanies the goods or services.

18 (iii) A subscriber is allowed 7 days to cancel the services or
19 return the goods without obligation for payment.

20 (b) A contractual agreement that requires payment and allows
21 the subscriber at least 10 days to cancel the contract and receive
22 a full refund of the payment.

23 Sec. 15. It is an abusive method, act, or practice and a
24 violation of this act for a telephone solicitor to, or for a
25 telephone solicitor to cause another person to, do any of the
26 following:

27 (a) Cause a telephone to ring repeatedly, continuously, or in
28 a manner that a reasonable person would consider annoying,
29 harassing, or abusive.

1 (b) Engage a subscriber in a telephone solicitation
2 repeatedly, continuously, or in a manner that a reasonable person
3 would consider annoying, harassing, or abusive.

4 (c) Without the express verifiable authorization of the
5 subscriber, send a telephone solicitation to a subscriber's
6 telephone at a time other than between 9 a.m. and 8 p.m. local time
7 at the subscriber's residence.

8 Sec. 17. It is an unfair or deceptive method, act, or practice
9 and a violation of this act for a telephone solicitor to, or for a
10 telephone solicitor to cause another person to, do any of the
11 following during the course of a telephone solicitation:

12 (a) Misrepresent or fail to disclose, in a clear, conspicuous,
13 and intelligible manner and before payment is received from the
14 subscriber, all of the following information:

15 (i) The total purchase price to the subscriber of the goods or
16 services sold to the subscriber.

17 (ii) Any restrictions, limitations, or conditions to purchase
18 or to use the goods or services that are the subject of an offer to
19 sell goods or services.

20 (iii) Any material term or condition of the seller's refund,
21 cancellation, or exchange policy, including, but not limited to, a
22 subscriber's right to cancel a purchase made pursuant to a
23 telephone solicitation under section 13, and, if applicable, that
24 the seller does not have a refund, cancellation, or exchange
25 policy.

26 (iv) Any material costs or conditions related to receiving a
27 prize, including, but not limited to, the odds of winning the
28 prize, and if the odds are not calculable in advance, the factors
29 used in calculating the odds, the nature and value of a prize, that

1 no purchase is necessary to win the prize, and the method of
2 entering the contest if no purchase is required.

3 (v) Any material aspect of an investment opportunity the
4 seller is offering, including, but not limited to, risk, liquidity,
5 earnings potential, market value, and profitability.

6 (vi) The quantity and any material aspect of the quality or
7 basic characteristics of any goods or services offered.

8 (vii) The right to cancel a sale under section 13.

9 (b) Make a false or misleading statement or misrepresentation
10 with the purpose of inducing a subscriber to pay for goods or
11 services, make a contribution, or pay to avoid liability, legal or
12 otherwise, on behalf of the subscriber or a member of the
13 subscriber's family.

14 (c) Request or accept payment from a consumer or make or
15 submit a charge to the subscriber's credit or bank account before
16 the telephone solicitor or seller receives from the subscriber an
17 express verifiable authorization.

18 (d) Offer to a subscriber a prize promotion in which a
19 purchase or payment is necessary to obtain the prize.

20 (e) Fail to comply with the requirements of sections 3, 5, 7,
21 9, 11, 13, or 19.

22 (f) Make a telephone solicitation to a subscriber who or
23 business that has requested to not receive telephone communications
24 from the organization or other person on whose behalf the telephone
25 solicitation is made.

26 (g) While making a telephone solicitation, misrepresent in a
27 message left for a subscriber on the subscriber's answering machine
28 or voice mail that the subscriber is an existing customer of, or
29 otherwise has a current business matter or transaction with, the

1 telephone solicitor or the organization or other person on whose
2 behalf the telephone solicitation is being made, and request that
3 the subscriber call the telephone solicitor or another person to
4 discuss that matter, transaction, or relationship.

5 (h) Make a false or misleading statement or misrepresentation
6 with the purpose of inducing a subscriber to provide personal
7 information, including, but not limited to, identity, financial, or
8 preferences information.

9 (i) Make a false or misleading statement or misrepresentation
10 relating to any employment, whether temporary or permanent,
11 contracting, investment, or other income opportunities.

12 Sec. 19. A violation of a federal or state law relating to the
13 subject matter of this act, including, but not limited to, 16 CFR
14 part 310 and 47 USC 227, is a violation of this act.

15 Sec. 21. This act must be liberally construed to effectuate
16 its purpose and the remedies provided under this act are in
17 addition to any other remedy provided by law.

18 Sec. 23. This act does not relieve a person from complying
19 with any other applicable law.

20 Sec. 25. (1) If the attorney general has probable cause to
21 believe that a person has engaged, is engaging, or is about to
22 engage in a method, act, or practice that is unlawful under this
23 act and gives notice in accordance with this section, the attorney
24 general may bring a civil action in accordance with principles of
25 equity to restrain the defendant by temporary or permanent
26 injunction from engaging in the method, act, or practice. The civil
27 action may be brought in the circuit court of the county where the
28 defendant is established or conducts business or, if the defendant
29 is not established in this state, in the circuit court of Ingham

1 County. The court may award costs to the prevailing party. For each
2 violation, the court may assess the defendant a civil fine of not
3 more than \$25,000.00. For purposes of this subsection, each
4 telephone communication may be considered a separate violation and
5 a singular telephone communication may generate multiple separate
6 violations.

7 (2) Unless waived by the court on good cause shown not less
8 than 10 days before the commencement of a civil action under this
9 section, the attorney general shall notify the person of the
10 intended action and give the person an opportunity to cease and
11 desist from the alleged unlawful method, act, or practice or to
12 confer with the attorney general in person, by counsel, or by other
13 representative as to the proposed action before the proposed filing
14 date. The notice may be given to the person by mail, postage
15 prepaid, to the person's usual place of business or, if the person
16 does not have a usual place of business, to the person's last known
17 address, or, if the person is a corporation, only to a resident
18 agent who is designated to receive service of process or to an
19 officer of the corporation.

20 (3) A prosecuting attorney or law enforcement officer
21 receiving notice of an alleged violation of this act, or of a
22 violation of an injunction, order, decree, or judgment issued in a
23 civil action brought under this section, or of a violation of an
24 assurance under this act, shall immediately forward written notice
25 of the violation together with any information the prosecuting
26 attorney or law enforcement officer may have to the office of the
27 attorney general.

28 (4) A person that knowingly violates the terms of an
29 injunction, order, decree, or judgment issued under this section

1 shall forfeit and pay to the state a civil fine of not more than
2 \$25,000.00 for each violation. For purposes of this subsection,
3 both of the following apply:

4 (a) Each telephone communication may be considered a separate
5 violation and a singular telephone communication may generate
6 multiple separate violations.

7 (b) The court issuing an injunction, order, decree, or
8 judgment shall retain jurisdiction, the cause must be continued,
9 and the attorney general may petition for recovery of a civil fine
10 as provided under this subsection.

11 Sec. 27. (1) A person that knowingly uses, or has knowingly
12 used, a method, act, or practice that targets vulnerable
13 individuals and is in violation of this act is liable to this state
14 for a civil fine of not more than \$50,000.00 for each violation, or
15 \$75,000.00 for each persistent and knowing violation. For purposes
16 of this subsection, each telephone communication may be considered
17 a separate violation and a singular telephone communication may
18 generate multiple separate violations.

19 (2) A person that knowingly uses, or has knowingly used, a
20 method, act, or practice that targets or mimics vulnerable
21 telephone numbers and is in violation of this act is liable to this
22 state for a civil fine of not more than \$75,000.00 for each
23 violation, or \$100,000.00 for each persistent and knowing
24 violation. For purposes of this subsection, each telephone
25 communication may be considered a separate violation and a singular
26 telephone communication may generate multiple separate violations.

27 (3) When determining the amount of the civil fine to be
28 imposed under this section, the court may consider:

29 (a) The good or bad faith of the violator as it relates to the

1 violation.

2 (b) The injury to the public.

3 (c) The violator's ability to pay.

4 (d) The public's interest in eliminating the benefits derived
5 by the violator from the violation.

6 (e) The necessity of vindicating the authority of this state.

7 (f) The public's interest in deterring future similar methods,
8 acts, or practices.

9 (4) The civil fines recoverable by this state under this
10 section are supplemental and cumulative to any other available
11 civil fine and relief available under this act and other laws,
12 regulations, or rules.

13 Sec. 29. (1) If the attorney general has authority to bring a
14 civil action or proceeding under section 25, the attorney general
15 may accept an assurance of discontinuance of a method, act, or
16 practice that is alleged to be unlawful from the person that is
17 alleged to have engaged, be engaging, or be about to engage in the
18 method, act, or practice. An assurance under this section is not an
19 admission of guilt and must not be introduced in any other
20 proceeding. The assurance may include a stipulation for any or all
21 of the following:

22 (a) The voluntary payment by the person for the costs of
23 investigation and reasonable attorney fees.

24 (b) An amount to be held in escrow pending the outcome of an
25 action.

26 (c) An amount for restitution to any aggrieved person.

27 (2) An assurance of discontinuance must be in writing and may
28 be filed in the circuit court of Ingham County. The clerk of the
29 circuit court shall maintain a record of the filings. Unless

1 rescinded by the parties or voided by the circuit court for good
2 cause, the assurance may be enforced in the circuit court by the
3 parties to the assurance. The assurance may be modified by the
4 parties pursuant to an agreement by all parties in writing or by a
5 court for good cause.

6 Sec. 31. (1) If the attorney general has reason to believe
7 that a person has information or is in possession, custody, or
8 control of any document or other tangible object relevant to an
9 investigation for a violation of this act, the attorney general may
10 serve upon the person, before bringing a civil action, a written
11 demand to appear and be examined under oath, and to produce the
12 document or object for inspection and copying. All of the following
13 apply to the demand under this subsection:

14 (a) The demand must be served upon the person in the manner
15 required for service of process in this state.

16 (b) The demand must describe the nature of the conduct
17 constituting the violation under investigation.

18 (c) The demand must describe the document or object with
19 sufficient definiteness to permit it to be fairly identified.

20 (d) If requested, the demand must contain a copy of the
21 written interrogatories.

22 (e) The demand must prescribe a reasonable time at which the
23 person shall appear to testify, within which to answer the written
24 interrogatories, and within which the document or object must be
25 produced, and advise the person that objections to or reasons for
26 not complying with the demand may be filed with the entity serving
27 the demand on or before that time.

28 (f) The demand must specify a place for the taking of
29 testimony or for production and designate the person who shall be

1 custodian of the document or object.

2 (2) At any time before the return date specified in the demand
3 for information under subsection (1), or within 14 days following
4 notice of the demand, whichever is shorter, any person from whom
5 information has been requested may petition the circuit court of
6 Ingham County, stating good cause, for a protective order to extend
7 the return date for a reasonable time, or to modify or set aside
8 the demand. The person serving the demand shall receive at least 14
9 days' notice of the petition described in this subsection and shall
10 be given an opportunity to respond.

11 (3) If no protective order from the circuit court of Ingham
12 County is secured under subsection (2) and the demand is not
13 complied with by its return date, the person serving the demand,
14 upon notice to the person requested to provide information, may
15 apply to the court for an order compelling compliance with the
16 request made under subsection (1).

17 (4) Any court of competent jurisdiction in this state, upon a
18 showing by the attorney general that there are reasonable grounds
19 to believe that the provisions of this act are being, have been, or
20 are about to be violated; that the person who is committing, has
21 committed, or is about to commit methods, acts, or practices that
22 violate this act or who possess the relevant documentary material
23 has left this state or is about to leave this state; and that an
24 order to comply with the provisions of subsection (1) is necessary
25 for the enforcement of this act, may order the person described in
26 this subsection to comply with the provisions of subsection (1)
27 whether the attorney general has made a prior demand for
28 information or not. The court may, notwithstanding any provision to
29 the contrary, immediately and without notice, forbid the removal

1 from any place, concealment, withholding, destruction, mutilation,
2 falsification, or alteration by any other means of a documentary
3 material in the possession, custody, or control of a person
4 believed to be connected with methods, acts, or practices that
5 violate this act.

6 (5) A person who has received notice of a demand for
7 information under subsection (1), or of an order under subsection
8 (3) or (4), and with intent to avoid, evade, or prevent compliance,
9 in whole or in part, with a civil investigation or order under this
10 section, removes from any place, conceals, withholds, destroys,
11 mutilates, falsifies, or by any other means alters any documentary
12 material in the possession, custody, or control of a person subject
13 to that notice, is subject to a civil fine of not more than
14 \$10,000.00 per violation, recoverable by this state in addition to
15 any other appropriate sanction.

16 (6) Any procedure, testimony taken, or material produced must
17 be kept confidential by the attorney general before bringing a
18 civil action against a person under this act for the violation
19 under investigation, unless confidentiality is waived by the person
20 being investigated and the person who has testified, answered
21 interrogatories, or produced material.

22 (7) Any compliance with a demand for information under
23 subsection (1) or of an order under subsection (3) or (4) does not
24 create liability for a carrier or VoIP by a subscriber to whom the
25 information relates.

26 Sec. 33. (1) A person upon whom a notice is served under
27 section 25 shall comply with the terms of the notice unless
28 otherwise provided by an order of the circuit court.

29 (2) A person who does any of the following shall be ordered to

1 pay a civil fine of not more than \$10,000.00:

2 (a) Knowingly and without good cause fails to appear when
3 served with the notice.

4 (b) Knowingly avoids, evades, or prevents compliance, in whole
5 or in part, with an investigation under this act, including, but
6 not limited to, the removal from any place, concealment,
7 destruction, mutilation, alteration, or falsification of
8 documentary material in the possession, custody, or control of a
9 person subject to the notice.

10 (c) Knowingly conceals relevant information in an
11 investigation under this act.

12 (3) The attorney general may file a petition in the circuit
13 court of the county in which the person is established or conducts
14 business or, if the person is not established in this state, in the
15 circuit court of Ingham County for an order to enforce compliance
16 with this section. A person that violates a final order entered
17 under this section is subject to punishment for civil contempt.

18 (4) Upon the petition of the attorney general, the circuit
19 court may enjoin a person from doing business in this state if the
20 person persistently and knowingly evades or prevents compliance
21 with an injunction issued under this act.

22 Sec. 35. (1) A person that suffers loss as a result of a
23 violation of this act may bring a civil action to recover 1 of the
24 following, whichever is greater:

25 (a) Actual damages plus reasonable attorney fees.

26 (b) \$1,000.00 plus reasonable attorney fees.

27 (2) This section does not prevent a consumer from asserting
28 the consumer's rights under 1971 PA 227, MCL 445.111 to 445.117, if
29 the telephone solicitation results in a home solicitation sale, or

1 asserting any other right or claim the consumer may have under
2 applicable state or federal law.

3 (3) This section does not apply to a carrier or VoIP in
4 compliance with 16 CFR part 310 and 47 USC 227.

5 Sec. 37. If the attorney general commences a civil action or
6 files a voluntary assurance under this act, filing fees are not
7 required to be paid.

8 Sec. 39. (1) An action under this act is barred if not
9 commenced within 4 years after the claim of relief or cause of
10 action accrues.

11 (2) A telephone solicitor shall keep, for not more than 4
12 years, records relating to telephone solicitations.

13 (3) A low-income employee that is not responsible for
14 managerial, strategic, supervisorial, structural, policy, or other
15 organizational decision making is not liable under this act if the
16 employee's violative action is undertaken pursuant to the direction
17 of a supervisor.

18 Enacting section 1. This act does not take effect unless all
19 of the following bills of the 101st Legislature are enacted into
20 law:

21 (a) Senate Bill No. ____ or House Bill No. 6308 (request no.
22 05410'22).

23 (b) Senate Bill No. ____ or House Bill No. 6309 (request no.
24 05411'22).

25 (c) Senate Bill No. ____ or House Bill No. 6310 (request no.
26 05420'22).