

ASSEMBLY, No. 1023

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen CONNORS and MORAN

1 AN ACT concerning recorded telephone messages and amending  
2 P.L.1993, c.252.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 2 of P.L.1993, c.252 (C.48:17-28) is amended to read  
8 as follows:

9 2. A caller shall not use a telephone or telephone line to contact a  
10 subscriber to deliver a recorded message [for the purpose of delivering  
11 commercial advertisement to the subscriber] other than for emergency  
12 purposes, unless the recorded message is introduced by an operator  
13 who shall obtain the subscriber's consent before playing the recorded  
14 message, or unless a prior or current business relationship exists  
15 between the caller and the subscriber.

16 As used in this section, "emergency purposes" means calls made  
17 necessary in any situation affecting the health and safety of consumers.  
18 (cf: P.L.1993, c.252, s.2)

19  
20 2. This act shall take effect immediately.

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23 STATEMENT

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25 This bill prohibits the making of intrastate telephone calls to deliver  
26 any recorded message other than a call made for emergency purposes,  
27 unless the recorded message is introduced by a live operator who  
28 obtains the consent of the person called, or unless a prior or current  
29 business relationship exists between the caller and the person called.  
30 The bill changes the current law which prohibits only the making of  
31 intrastate telephone calls to deliver a recorded commercial message.  
32 In the case of Lysaght v. State of N.J., 837 F.Supp. 646 (D.N.J.1993)

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 the enforcement of the current law was enjoined because the court  
2 held that the law was likely to violate the First Amendment of the  
3 United States Constitution.

4 The bill makes the State law similar to the federal "Telephone  
5 Consumer Protection Act of 1991," 47 U.S.C. §227 (b)(1), which  
6 prohibits the making of interstate telephone calls to deliver recorded  
7 messages without the prior consent of the party called, unless the call  
8 is initiated for emergency purposes or is exempted by rule or order of  
9 the Federal Communications Commission. The constitutionality of the  
10 federal law was upheld in the case of Moser v. F.C.C., 46 F.3d 970  
11 (9th Cir. 1995).

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16 Prohibits certain recorded telephone messages.