

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1023**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 3, 1996

The Assembly Transportation and Communications Committee favorably reports Assembly Bill No. 1023 with committee amendments.

As amended by the committee this bill prohibits the making of intrastate telephone calls to deliver any recorded message other than a call made for emergency purposes, unless the recorded message is introduced by a live operator who obtains the consent of the person called, or unless a prior or current relationship exists between the caller and the person called. However, automated recorded telephone operator introductions for the purpose of accepting a call or message are excluded from this prohibition.

The bill amends current State law which prohibits only the making of intrastate telephone calls to deliver a recorded commercial message. In the case of Lysaght v. State of N.J., 837 F.Supp. 646 (D.N.J.1993) the enforcement of the current law was enjoined because the court held that the law was likely to violate the First Amendment of the United States Constitution.

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

The committee adopted amendments to exclude automated recorded telephone operator introductions for the purpose of accepting a call or message from the bill's provisions. The amendments also delete "business" from modifying relationship as this law with the amendments no longer applies only to commercial recorded messages. The amendments also clarify that an emergency purpose is one immediately affecting the health and safety of consumers and that the provisions of the law apply only to intrastate

telephone calls.

Technical review was performed on this prefiled bill, as required under Joint Rule 18A of the Senate and General Assembly.