

AMENDED IN SENATE APRIL 1, 2002

**SENATE BILL**

**No. 1560**

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**Introduced by Senator Figueroa**

February 20, 2002

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An act to amend Section 17591 of the Business and Professions Code, relating to telephone solicitations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1560, as amended, Figueroa. Telephone solicitations.

Existing law prohibits certain unfair business practices, including certain advertising practices. Existing law requires the Attorney General, not later than January 1, 2003, to maintain a "do not call" list, containing the telephone numbers and ZIP Codes of residential or wireless telephone subscribers who do not wish to receive unsolicited and unwanted telephone calls from telephone solicitors. Existing law requires telephone solicitors to pay a fee to the Attorney General to obtain copies of the "do not call" list. Existing law provides that is unlawful for a person to obtain a "do not call" list for specified purposes. Existing law makes it a crime to violate any of the provisions governing advertising.

This bill would provide that it is unlawful for a person to obtain a "do not call" list for the purpose of selling or leasing the list to a person other than a telephone solicitor or for the purpose of a telephone solicitor selling or leasing the list. The bill would ~~also~~ prohibit any person, other than the Attorney General, from ~~purchasing~~ *selling* or leasing the list ~~from any person other than the Attorney General unless the Attorney General has authorized that purchase or lease.~~ *The bill would also prohibit a person from purchasing the list except from the Attorney General.*

Because a violation of this bill’s provisions with respect to advertising would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17591 of the Business and Professions  
2 Code is amended to read:

3 17591. (a) The Attorney General shall not later than January  
4 1, 2003, maintain a “do not call” list, updated no less frequently  
5 than quarterly, which shall set forth the California telephone  
6 numbers and ZIP Codes, but not the names or addresses, of  
7 subscribers, arranged by area code and numerical sequence, who  
8 do not wish to receive unsolicited and unwanted telephone calls  
9 from telephone solicitors as defined in Section 17592. The “do not  
10 call” list shall indicate any exclusions designated by the subscriber  
11 as provided in subdivision (b).

12 (b) Subscribers may place their telephone numbers and ZIP  
13 Codes on the “do not call” list in the manner prescribed by the  
14 Attorney General. The subscriber’s placement on the “do not call”  
15 list shall expire three years after the date on which the subscriber’s  
16 telephone number and ZIP Code first became available on the list  
17 to telephone solicitors. The Attorney General shall triennially  
18 charge these subscribers a fee not to exceed one dollar (\$1.00). A  
19 subscriber may exclude from the coverage of the “do not call” list  
20 telephone calls from entities identified by the subscriber. The  
21 subscriber shall designate any exclusions in the manner prescribed  
22 by the Attorney General.

23 (c) Telephone solicitors, as defined in Section 17592, shall  
24 obtain copies of the “do not call” list by paying a fee to the  
25 Attorney General in an amount not to exceed the costs incurred by  
26 the Attorney General in the preparation, maintenance, production,



1 and distribution of that list. The Attorney General shall establish  
2 a sliding scale fee schedule, charging a telephone solicitor with  
3 more than 1,000 employees or independent contractors the  
4 maximum fee and charging a telephone solicitor with fewer than  
5 *the equivalent of five full-time employees or independent*  
6 *contractors* no fee. The Attorney General shall provide a  
7 telephone solicitor the option of paying this fee on a quarterly or  
8 annual basis. The Attorney General shall offer a statewide list and  
9 shall also offer lists of areas within the state. The determination of  
10 the number and definition of areas shall be within the discretion of  
11 the Attorney General. It shall be a violation of this ~~section for any~~  
12 ~~person other than the Attorney General to purchase or lease the~~  
13 ~~“do not call” list from a person other than the Attorney General~~  
14 ~~without the authorization of the Attorney General.~~ *section for*  
15 *anyone, other than the Attorney General, to sell or lease this list.*  
16 *It shall be a violation of this section for anybody to purchase this*  
17 *list except from the Attorney General.*

18 (d) The Attorney General shall utilize the best available,  
19 cost-effective technology to ensure that subscribers may easily  
20 place their telephone numbers on the “do not call” list. This  
21 technology includes, but is not limited to, methods by which a  
22 subscriber may effect placement on the list by using a  
23 state-designated Internet Web site or a designated, statewide  
24 toll-free telephone number. When the subscriber utilizes the  
25 toll-free telephone number method, the subscriber shall call from  
26 the telephone that is also the number to be included on the list. The  
27 Attorney General shall also utilize the best available,  
28 cost-effective technology to ensure that telephone solicitors may  
29 easily obtain and manipulate the “do not call” list. This  
30 technology may include, but is not limited to, methods that are  
31 computer compatible and that allow the downloading of the list  
32 and the sorting of the list by ZIP Code and that make the list  
33 available on CD-ROM. The Attorney General may contract with  
34 a private vendor to establish, maintain, and administer the “do not  
35 call” list and a contract entered into in that regard shall include  
36 appropriate provisions to protect the confidentiality of subscriber  
37 information. The Attorney General may promulgate regulations to  
38 implement the provisions of this article.

39 (e) It is the intent of the Legislature that the fees paid to the  
40 Attorney General by telephone solicitors and subscribers be



1 utilized by the Attorney General in carrying out this article. The  
 2 Attorney General shall annually reduce the amount of the fee paid  
 3 by subscribers and telephone solicitors set forth in this section  
 4 based on revenue history and costs so that the fees do not exceed  
 5 the actual estimated costs in carrying out this article. The fees  
 6 obtained by the Attorney General shall be deposited in the Special  
 7 Telephone Solicitors Fund, which is hereby created. All moneys  
 8 in the fund shall be subject to annual appropriation in the Budget  
 9 Act.

10 (f) A person or entity that obtains a “do not call” list shall not  
 11 use the list for any purpose other than to comply with this article.  
 12 These unlawful purposes include, but are not limited to, selling or  
 13 leasing the “do not call” list to a person other than a telephone  
 14 solicitor, selling or leasing the “do not call” list by a telephone  
 15 solicitor, causing a subscriber to participate in and be included on,  
 16 the “do not call” list without the subscriber’s knowledge or  
 17 consent, selling or leasing the “do not call” list to a person other  
 18 than a telephone solicitor, selling or leasing by a telephone  
 19 solicitor of the “do not call” list, and a telephone solicitor, either  
 20 directly or indirectly, persuading a subscriber with whom it has an  
 21 established business relationship to place his or her telephone  
 22 number on the “do not call” list, if the solicitation has the effect  
 23 of preventing competitors from contacting that solicitor’s  
 24 customers.

25 SEC. 2. No reimbursement is required by this act pursuant to  
 26 Section 6 of Article XIII B of the California Constitution because  
 27 the only costs that may be incurred by a local agency or school  
 28 district will be incurred because this act creates a new crime or  
 29 infraction, eliminates a crime or infraction, or changes the penalty  
 30 for a crime or infraction, within the meaning of Section 17556 of  
 31 the Government Code, or changes the definition of a crime within  
 32 the meaning of Section 6 of Article XIII B of the California  
 33 Constitution.

