

MISSISSIPPI SALES CALLS ACT
INTERIM RULES

Promulgated
Pursuant to the
Mississippi Telephonic Sales Calls Act

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ARTICLE ONE
GENERAL PROVISIONS

 Preamble: The following Rules are hereby adopted by the Attorney General by the authority granted him by Chapter 538 General Laws of Mississippi, 1993, (hereinafter “the Act”). The Attorney General has been vested with the authority to regulate businesses engaged in commercial telephone solicitation by Chapter 538, 1993 General Laws of Mississippi to promote the general welfare of the public and the integrity of the telemarketing industry. These rules implement and make specific the provisions of that chapter and establish regulations, procedures, and requirements for commercial telephone sellers and salespersons doing business in the State of Mississippi. These Rules are intended to supplement the statutory provisions concerning filings, registrations, applications, or any other requirement contained therein.

101 Scope

In implementing the Act, the scope of these rules is the regulation of any person who:

- (1) By manual means, or by the use of an automated dialing machine, establishes, or attempts to establish, contact with a purchaser by means of an unsolicited telephone call for the purpose of soliciting a sale of any consumer goods or services, or for the purpose of soliciting an extension of credit for consumer goods or services, or for the purpose of obtaining information or an extension of credit for these purposes, or
- (2) Through a written or oral notification or advertisement offers a gift, award, or prize to a purchaser who has not previously purchased from the person initiating the communication, or
- (3) Provides a written or oral notification or advertisement in which a telephone call response is invited and which is followed by a telephone call in which the salesperson intends to complete a sale or enter into an agreement to purchase during the course of the call, or
- (4) Provides a written or oral notification or advertisement where the notice or advertisement represents the price, quality, or availability of consumer goods or services, and
 - (a) Which notice or advertisement invites a response by telephone, which is followed by a telephone call to the person by the sales person, or
 - (b) Which is followed by a telephone call to the person by the salesperson, or

(5) For the purpose of this rule chapter, a “gift, award, or prize” does not include

(a) A de minimus offering of goods such as a soft drink, a cup of coffee or tea, a snack, or a similar offering, or

(b) Additional goods of like kind as the goods being offered for sale.

(6) For the purpose of this rule “written or oral notification or advertisement” shall mean an advertisement specifically sent or addressed by the commercial telephone seller or salesperson to the person by mail or by other similar means of physical delivery, or made by telephone call or facsimile transmission. The phrase includes items addressed to “occupant”, “residents”, and similar names, but does not include misdirected mail or misdialed telephone or facsimile numbers, or a notification or advertisement directed to the general public and made by means of television, radio, yellow pages, newspapers, or similar kinds of notification or advertisement.

103 DEFINITIONS

The definitions contained in the Act are applicable to these rules.

105 FILING MATERIALS

All papers, forms, or information required to be filed with the Office of the Attorney General may be filed through the mails or otherwise. The date on which papers, forms, or other documents are actually received by the Office of the Attorney General shall be the date of filing thereof. An application is not considered complete and will not be further processed until all required documentation has been received by the Office of the Attorney General.

107 APPLICATION FORMS

All applications for a certificate of registration shall be submitted on forms authorized by the Office of the Attorney General. All information requested in such forms is essential and must be furnished. Additional documentation not specifically called for by the form, but which is essential to a full disclosure by the applicant of all information, shall be furnished to the Attorney General’s Office and properly identified. All forms and documentation furnished to the Office of the Attorney General become part of the records of this office and are not returnable.

109 VARIANCES FROM THE RULES

The Office of the Attorney General may grant in writing variances from these Rules if it can be determined that:

- (a) Application of the Rules from which the variance is granted would, in the particular case, be unnecessarily burdensome, and
- (b) Such variance would not be inconsistent with the public policy purposes of the Act.

111 INQUIRIES CONCERNING INTERPRETATIONS

The staff of the Office of the Attorney General may respond to inquiries concerning interpretations of the Act of the rules promulgated thereunder, provided sufficient relevant facts are given and the situation is not hypothetical. Such inquiry may be referred to an attorney assigned to the Office of Consumer Protection who may also, at his/her election, refuse to respond to an inquiry.

113 VALIDITY OF RULES

If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules.

115 VARIANCE BETWEEN RULES AND STATUTES

If there is any variance between these rules and the statutes regulating telephone solicitation, the statutes shall govern.

ARTICLE TWO
COMMERCIAL TELEPHONE SOLICITOR

201 APPLICATION

No person may act as a commercial telephone solicitor without first obtaining a Certificate of Registration to conduct such activity.

- (a) All applications for a Certificate of Registration shall be in writing on a form as provided herein, verified by the applicant, and accompanied by the appropriate documents.
- (b) The commercial telephone solicitor shall utilize the form prescribed by the Office of the Attorney General as hereby adopted and incorporated by reference. Prospective applicants can acquire an application packet (consisting of the application form, a copy of the Act and a copy of these rules) by oral or written request to the Office of Consumer Protection, 802 N. State Street, P. O. Box 22947, Jackson, MS 39225-2947, Telephone Number (601)354-4230.

203 SALESPERSONS

The commercial telephone solicitor shall list all employees hired to function as a salesperson within the application for a Certificate of Registration. The termination and hiring of salespersons subsequent to obtaining a Certificate of Registration shall be reported to the Office of the Attorney General by amendment within 10 days of such action.

205 WITHDRAWAL OF APPLICATION

An applicant can withdraw an application prior to the issuance of a Certificate of Registration by submitting a written request that the application be withdrawn.

207 SURETY BOND

- (A) The applicant for a Certificate of Registration shall provide to the Attorney General an original surety bond, issued by a corporate surety licensed to do business, and authorized to transact insurance in Mississippi. Through June 30, 1994 the bond shall be in the principal amount of \$50,000; after June 30, 1994 the bond shall be in the principal amount of \$75,000. The condition of the bond shall be the faithful performance of all duties and responsibilities of the commercial telephone solicitor and shall provide indemnification of any person suffering loss as the result of any violation of this Act.

(B) In lieu of a surety bond, the applicant for a Certificate of Registration as a commercial telephone solicitor shall provide to the Attorney General cash, a certificate of deposit, or government bonds in the amount of \$50,000 until June 30, 1994 and in the amount of \$75,000 after July 1, 1994. Such deposit is subject to the same terms and conditions as are provided for in the surety bond required herein. Any interest or earnings on such deposits are payable to the depositor.

209 EXCEPTIONS

Those exceptions and/or exclusions contained in the Act will be used to determine those organizations to which the requirement to obtain a Certificate of Registration does not apply. An attorney designated to work with the Office of Consumer Protection will make such determination and arrange proper notification to parties concerned.

211 RENEWAL

Each Certificate of Registration shall be in force for a one year period computed from the date of issue of the Certificate of Registration.

- (a) The commercial telephone seller having a Certificate of Registration in force shall notify the Attorney General of all material changes in the information submitted in the original application, including the original application, or any application for renewal occurring prior to renewal within 10 days of the change. Forms provided by the Office of the Attorney General will be utilized.
- (b) The commercial telephone seller shall attach a photocopy of the original information which was submitted as a condition of initial or renewal of the Certificate of Registration and the photocopy shall be noted and conspicuously identified.

213 INCOMPLETE APPLICATIONS

Documents submitted to the Office of the Attorney General which do not meet the requirements of this rule may be deemed an incomplete application package and applicant will be notified. A Certificate of Registration will only be issued upon the receipt of a complete application and supporting documents.

215 NOTIFICATION OF CUSTOMERS

Telecommunications Companies doing business in Mississippi will inform their customers of the provisions of the governing act (Chapter 538 1993 General Laws of Mississippi). The notification may be made by both:

- (a) Annual inserts in the billing statements mailed to customer; and
- (b) Conspicuous publication of the notice in the consumer information pages of the local telephone directories.

