

TELEPHONE SOLICITATION SALES ACT

OHIO REVISED CODE, CHAPTER 4719

§ 4719.01 Definitions; exemptions.

(A) As used in sections 4719.01 to 4719.18 of the Revised Code:

- (1) "Affiliate" means a business entity that is owned by, operated by, controlled by, or under common control with another business entity.
- (2) "Communication" means a written or oral notification or advertisement that meets both of the following criteria, as applicable:
 - (a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.
 - (b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:
 - (i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.
 - (ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A)(2)(b)(ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.
- (3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.
- (4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or licenses; and extended service contracts.
- (5) "Purchaser" means a person that is solicited to become or does become financially obligated as a result of a telephone solicitation.
- (6) "Salesperson" means an individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations but does not mean any of the following:
 - (a) An individual who comes within one of the exemptions in division (B) of this section;
 - (b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section;
 - (c) An individual under a written contract with a person who comes within one of the exemptions in division (B) of this section, if liability for all transactions with purchasers is assumed by the person so exempted.
- (7) "Telephone solicitation" means a communication to a person that meets both of the following criteria:
 - (a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson.
 - (b) The communication either represents a price or the quality or availability of goods or services or is used to induce the person to purchase goods or services, including, but not limited to, inducement through the offering of a gift, award, or prize.
- (8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a business.

(B) A telephone solicitor is exempt from the provisions of sections 4719.02 to 4719.18 and section 4719.99 of the Revised Code if the telephone solicitor is any one of the following:

- (1) A person engaging in a telephone solicitation that is a one-time or infrequent transaction not done in the course of a pattern of repeated transactions of a like nature;
- (2) A person engaged in telephone solicitation solely for religious or political purposes; a charitable organization, fund-raising counsel, or professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; or any person or other entity exempt under section 1716.03 of the Revised Code from filing a registration statement under section 1716.02 of the Revised Code;
- (3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the purchaser rather than during the telephone solicitation. However, if the person, following the telephone solicitation, causes another person to collect the payment of any money, this exemption does not apply.
- (4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B)(4) of this

section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

- (5) (a) A person primarily engaged in soliciting the sale of a newspaper of general circulation;
(b) As used in division (B)(5)(a) of this section, "newspaper of general circulation" includes, but is not limited to, both of the following:
 - (i) A newspaper that is a daily law journal designated as an official publisher of court calendars pursuant to section 2701.09 of the Revised Code;
 - (ii) A newspaper or publication that has at least twenty-five per cent editorial, non-advertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.
- (6) (a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply:
 - (i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A.78I, and is registered or is exempt from registration under 15 U.S.C.A.78I(g)(2)(A), (B), (C), (E), (F), (G), or (H);
 - (ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system;
 - (iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4).
(b) An issuer, or its subsidiary, that formerly had a class of securities that met the criteria set forth in division (B)(6)(a) of this section if the issuer, or its subsidiary, has a net worth in excess of one hundred million dollars, files or its parent files with the securities and exchange commission an S.E.C. form 10-K, and has continued in substantially the same business since it had a class of securities that met the criteria in division (B)(6)(a) of this section. As used in division (B)(6)(b) of this section, "issuer" and "subsidiary" include the successor to an issuer or subsidiary.
- (7) A person soliciting a transaction regulated by the commodity futures trading commission, if the person is registered or temporarily registered for that activity with the commission under 7 U.S.C.A. 1 et. seq. and the registration or temporary registration has not expired or been suspended or revoked;
- (8) A person soliciting the sale of any book, record, audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a full refund within thirty days to a purchaser who returns the merchandise or if the person solicits the sale on behalf of a membership club operating in compliance with regulations adopted by the Federal Trade Commission in 16 C.F.R. 425;
- (9) A supervised financial institution or its subsidiary. As used in division (B)(9) of this section, "supervised financial institution" means a bank, trust company, savings and loan association, savings bank, credit union, industrial loan company, consumer finance lender, commercial finance lender, or institution described in section 2(c)(2)(F) of the "Bank Holding Company Act of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an official or agency of the United States, this state, or any other state of the United States; or a licensee or registrant under sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 1321.83 of the Revised Code.
- (10) (a) An insurance company, association, or other organization that is licensed or authorized to conduct business in this state by the superintendent of insurance pursuant to Title XXXIX (39) of the Revised Code or Chapter 1751. of the Revised Code, when soliciting within the scope of its license or authorization.
(b) A licensed insurance broker, agent, or solicitor when soliciting within the scope of the person's license. As used in division (B)(10)(b) of this section, "licensed insurance broker, agent, or solicitor" means any person licensed as an insurance broker, agent, or solicitor by the superintendent of insurance pursuant to Title XXXIX (39) of the Revised Code.
- (11) A person soliciting the sale of services provided by a cable television system operating under authority of a governmental franchise or permit;
- (12) A person soliciting a business-to-business sale under which any of the following conditions are met:
 - (a) The telephone solicitor has been operating continuously for at least three years under the same business name under which it solicits purchasers, and at least fifty-one per cent of its gross dollar volume of sales consists of repeat sales to existing customers to whom it has made sales under the same business name.
 - (b) The purchaser business intends to resell the goods purchased.
 - (c) The purchaser business intends to use the goods or services purchased in a recycling, reuse, manufacturing, or remanufacturing process.
 - (d) The telephone solicitor is a publisher of a periodical or of magazines distributed as controlled circulation publications as defined in division (CC) of section 5739.01 of the Revised Code and is soliciting sales of advertising, subscriptions, reprints, lists, information databases, conference participation or sponsorships, trade shows or media products related to the periodical or magazine, or other publishing services provided by the controlled circulation publication.

- (13) A person that, not less often than once each year, publishes and delivers to potential purchasers a catalog that complies with both of the following:
- (a) It includes all of the following:
 - (i) The business address of the seller;
 - (ii) A written description or illustration of each good or service offered for sale;
 - (iii) A clear and conspicuous disclosure of the sale price of each good or service; shipping, handling, and other charges; and return policy;
 - (b) One of the following applies:
 - (i) The catalog includes at least twenty-four pages of written material and illustrations, is distributed in more than one state, and has an annual postage-paid mail circulation of not less than two hundred fifty thousand households;
 - (ii) The catalog includes at least ten pages of written material or an equivalent amount of material in electronic form on the Internet or an on-line computer service, the person does not solicit customers by telephone but solely receives telephone calls made in response to the catalog, and during the calls the person takes orders but does not engage in further solicitation of the purchaser. As used in division (B)(13)(b)(ii) of this section, "further solicitation" does not include providing the purchaser with information about, or attempting to sell, any other item in the catalog that prompted the purchaser's call or in a substantially similar catalog issued by the seller.
- (14) A political subdivision or instrumentality of the United States, this state, or any state of the United States;
- (15) A college or university or any other public or private institution of higher education in this state;
- (16) A public utility as defined in section 4905.02 of the Revised Code or a retail natural gas supplier as defined in section 4929.01 of the Revised Code, if the utility or supplier is subject to regulation by the public utilities commission, or the affiliate of the utility supplier;
- (17) A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or service purchased within a period of at least seven days and to receive a full refund within thirty days after the purchaser returns the good or cancels the service;
- (18) (a) A person that, for at least one year, has been operating a retail business under the same name as that used in connection with telephone solicitation and both of the following occur on a continuing basis:
 - (i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises.
 - (ii) At least fifty-one per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises.
- (b) An affiliate of a person that meets the requirements in division (B)(19)(a) of this section if the affiliate meets all of the following requirements:
 - (i) The affiliate has operated a retail business for a period of less than one year;
 - (ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises;
 - (iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises.
- (c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met:
 - (i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises;
 - (ii) The goods or services that are the subject of telephone solicitation are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises;
 - (iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the Federal Trade Commission in 16 C.F.R. part 310.
- (19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies:
 - (a) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least seventy-five per cent of its gross revenues from written telephone solicitation contracts with persons who come within one of the exemptions in division (B) of this section.
 - (b) The person is an affiliate of one or more exempt persons and makes telephone solicitations on behalf of only the exempt persons of which it is an affiliate.
 - (c) The person makes telephone solicitations on behalf of only exempt persons, the person and each exempt person on whose behalf telephone solicitations are made have entered into a written contract that specifies the manner in which the telephone solicitations are to be conducted and that at a minimum requires compliance with the telemarketing sales rule adopted by the Federal Trade Commission in

16 C.F.R. part 310, and the person conducts the telephone solicitations in the manner specified in the written contract.

(d) The person performs telephone solicitation for religious or political purposes, a charitable organization, a fund-raising council, or a professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; and meets all of the following requirements:

- (i) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least fifty-one per cent of its gross revenues from written telephone solicitation contracts with persons who come within the exemption in division (B)(2) of this section;
- (ii) The person does not conduct a prize promotion or offer the sale of an investment opportunity; and
- (iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the Federal Trade Commission in 16 C.F.R. part 310.

(20) A person that is a licensed real estate salesperson or broker under Chapter 4735. of the Revised Code when soliciting within the scope of the person's license;

(21) (a) Either of the following:

- (i) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature on behalf of a publisher under a written agreement directly between the publisher and the person.
- (ii) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature as authorized by a publisher under a written agreement directly with a publisher's clearinghouse provided the person is a resident of Ohio for more than three years and initiates all telephone solicitations from Ohio and the person conducts the solicitation and sale in compliance with 16 C.F.R. Part 310, as adopted by the Federal Trade Commission.

(b) As used in division (B)(22) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.

(22) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or the solicitation actually does not result in, a sale that costs the purchaser an amount greater than five hundred dollars.

(23) A funeral director licensed pursuant to Chapter 4717. of the Revised Code when soliciting within the scope of that license, if both of the following apply:

- (a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the Federal Trade Commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;
- (b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.

(24) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.11 of the Revised Code.

(25) A person that solicits sales from its previous purchasers and meets all of the following requirements:

- (a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;
- (b) The person has, for a period of not less than three years, operated a business under the same business name as that used in connection with telephone solicitation;
- (c) The person does not conduct a prize promotion or offer the sale of an investment opportunity;
- (d) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the Federal Trade Commission in 16 C.F.R. part 310;
- (e) Neither the person nor any of its principals has been convicted of, pleaded guilty to, or has entered a plea of no contest for a felony or a theft offense as defined in sections 2901.02 and 2913.01 of the Revised Code or similar law of another state or of the United States;
- (f) Neither the person nor any of its principals has had entered against them an injunction or a final judgment or order, including an agreed judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving engaging in a pattern of corrupt practices, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice.

(26) An institution defined as a home health agency in section 3701.88 of the Revised Code, that conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the Federal Trade Commission in 16 C.F.R. part 310, and engages in telephone solicitation only within the scope of the institution's certification, accreditation, contract with the department of aging, or status as a home health agency; and that meets one of the following requirements:

(a) The institution is certified as a provider of home health services under Title XVIII of the Social Security Act, 49 Stat. 620, 42 U.S.C. 301, as amended; and is registered with the department of health pursuant to division (B) of section 3701.88 of the Revised Code;

(b) The institution is accredited by either the joint commission on accreditation of health care organizations or the community health accreditation program;

(c) The institution is providing PASSPORT services under the direction of the Ohio department of aging under section 173.40 of the Revised Code;

(d) An affiliate of an institution that meets the requirements of division (B)(27)(a), (b), or (c) of this section when offering for sale substantially the same goods and services as those that are offered by the institution that meets the requirements of division (B)(27)(a), (b), or (c) of this section.

(27) A person licensed to provide a hospice care program by the department of health pursuant to section 3712.04 of the Revised Code when conducting telephone solicitations within the scope of the person's license and according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the Federal Trade Commission in 16 C.F.R. part 310. HISTORY: 146 v S 214. Eff 12-05-96.

Not analogous to former RC § 4719.01 (RS § 4371; S&C 859; 29 v 449, § 1; 88 v 397; GC § 5973; Bureau of Code Revision, 10-1-53), repealed 133 v H153, § 1, eff 8-28-69.* So in enrolled bill.

§ 4719.02 Certificate of registration or renewal required to act as telephone solicitor; contents of application; notice of change in information; statutory agent.

(A) No person shall act as a telephone solicitor without first having obtained a certificate of registration or registration renewal from the attorney general under section 4719.03 of the Revised Code.

(B) The application for a certificate of registration or registration renewal as a telephone solicitor shall contain all of the following information:

(1) The true name, date of birth, driver's license number, social security number or tax identification number, business address, and home address of the applicant, including each name under which the applicant intends to engage in telephone solicitations;

(2) Each business or occupation engaged in by the applicant during the three years immediately preceding the date of the application, and the location of each such business or occupation;

(3) The previous experience of the applicant as a telephone solicitor or salesperson;

(4) Whether in any jurisdiction the applicant has been arrested for, convicted of, or pleaded guilty to, has entered a plea of no contest for, or is being prosecuted by indictment or information for a felony and, if so, the nature of the felony;

(5) Whether, in a court of competent jurisdiction of this state or any other state or the United States, the applicant has been convicted of or pleaded guilty to, has entered a plea of no contest for, or is being prosecuted by indictment or information for engaging in a pattern of corrupt activity, racketeering, a violation of federal or state securities law, or a theft offense as defined in section 2913.01 of the Revised Code or in similar law of any other state or the United States;

(6) Whether there has ever been a judicial or administrative finding that the applicant has acted as a salesperson without a license, or whether such a license has been refused, revoked, or suspended in any jurisdiction;

(7) Whether the applicant has worked for or been affiliated with a company that has had entered against it an injunction, a temporary restraining order, or a final judgment or order, including an agreed judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice;

(8) Whether in any jurisdiction there has been entered against the applicant an injunction, a temporary restraining order, or a final judgment or order, including an agreed judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving engaging in a pattern of corrupt activity, racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice; and whether there is any litigation or proceeding pending against the applicant;

(9) Whether the applicant, at any time during the previous seven years, has filed for bankruptcy, been adjudged bankrupt, or been reorganized because of insolvency;

(10) The name of any parent, affiliate, or other related entity to which either of the following applies:

(a) The entity may engage in a business transaction with a purchaser relating to any telephone solicitation by the applicant.

(b) The entity accepts responsibility or is otherwise held out by the applicant as being responsible for any statement or act of the applicant relating to any telephone solicitation by the applicant.

(11) The complete street address of each location, designating the principal location, from which the applicant will be doing business, including each location at which mail will be received by or on behalf of the applicant, and identifying any such location that is a post office box or mail drop;

(12) A list of all telephone numbers to be used by the applicant, with the street address where each telephone using these numbers will be located;

- (13) The true name, current home address, date of birth, social security number, and all other names by which known, or previously known, of each of the following:
- (a) Each principal officer, director, trustee, shareholder, owner, or partner of the applicant, and each other person participating in or responsible for the management of the applicant's business;
 - (b) Each office manager or other person principally responsible for each location from which the applicant will do business;
 - (c) Each salesperson or other person to be employed by the applicant.
- (14) The name and street address of the statutory agent required by division(D) of this section;
- (15) For any application containing answers in the affirmative to any information required by divisions (B)(4) to (8) of this section:
- (a) The name of the court or administrative agency rendering the conviction, judgment, or order against the person or in which the litigation or proceeding is pending;
 - (b) The docket number of the matter; the date of the conviction, judgment, or order or the date the pending litigation or proceeding was initiated; and the name of the governmental agency, if any, that brought the action resulting in the conviction, judgment, order, or pending litigation or proceeding.
- (16) If the applicant is other than an individual or if any parent, affiliate, or other related entity is identified pursuant to division (B)(10) of this section:
- (a) The applicant's place of organization and the place of organization of any such parent, affiliate, or other related entity;
 - (b) In the case of a partnership on the part of the applicant or such parent, affiliate, or other related entity, a copy of any written partnership agreement;
 - (c) In the case of a corporation, a copy of the articles of incorporation and bylaws of the applicant and such parent, affiliate, or other related entity.
- (17) The identity of any person, identified pursuant to division (B)(13) of this section, that in any jurisdiction:
- (a) Has been convicted of or pleaded guilty to, entered a plea of no contest for, or is being prosecuted by indictment or information for a felony, engaging in a pattern of corrupt activity, racketeering, a violation of federal or state securities law, or a theft offense as defined in section 2913.01 of the Revised Code or in similar law of any other state or the United States;
 - (b) Is involved in pending litigation or proceedings or has had entered against itself an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving engaging in a pattern of corrupt activity, racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice;
 - (c) Is or has been subject to any litigation, injunction, temporary restraining order, or final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving engaging in a pattern of corrupt activity, racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice;
 - (d) At any time during the previous seven years, has filed for bankruptcy, been adjudged bankrupt, or been reorganized because of insolvency;
 - (e) Has been a principal, director, officer, or trustee of or a general or limited partner in, or had responsibilities as a manager in, any corporation, partnership, joint venture, or other entity that filed for bankruptcy, was adjudged bankrupt, or was reorganized because of insolvency within one year after the person held that position.
- (18) For any application containing answers in the affirmative to any information required by division (B)(9) of this section and for any person described in division (B)(17)(d) of this section:
- (a) The name of the court or administrative agency rendering the conviction, judgment, or order against the person or in which the litigation is pending;
 - (b) The docket number of the matter; the date of the conviction, judgment, or order or the date the pending litigation was initiated; and the name of the governmental agency, if any, that brought the action resulting in the conviction, judgment, order or pending litigation.
- (19) The name and address of any person identified under division (B)(17)(e) of this section; the date of the action; the name of court that exercised jurisdiction; and the docket number of the matter;
- (20) The name, address, and account number of each institution where banking or similar monetary transactions are done by the applicant;
- (21) A copy of any script, outline, or presentation the applicant will require or suggest be used by a salesperson when soliciting or, if no such document is to be used, a notarized statement to that effect; sales information or literature to be provided by the applicant to a salesperson; and sales information or literature to be provided by the applicant to a purchaser in connection with any solicitation;
- (22) Any other information required at any time by the attorney general.

- (C) (1) Except as otherwise provided in divisions (C)(2) and (3) of this section, no telephone solicitor shall fail to notify the attorney general in writing any later than thirty days after the date of a change in the information required by division (B) of this section.
- (2) No telephone solicitor shall fail to notify the attorney general in writing any later than thirty days before any change in the information required by divisions (B)(1), (11), and (12) of this section.
- (3) No telephone solicitor shall fail to notify the attorney general in writing of any change in the information required by division (B)(21) of this section prior to its use in a solicitation.

(D) No nonresident telephone solicitor shall fail to maintain a resident of this state as its statutory agent for the purpose of service of process.

(E) Information regarding social security numbers, bank accounts, and solicitation scripts, outlines, or presentations submitted in an application under this section is not a public record under section 149.43 of the Revised Code. The attorney general shall not release information of that nature to the public. HISTORY: 146 v S 214. Eff 12-05-96. Not analogous to former RC § 4719.02 (RS § 7068; S&C 859; 29 v 449, § 3; GC § 13110; Bureau of Code Revision, 10-1-53), repealed 133 v H 153, § 1, eff 8-28-69.

§ 4719.03 Issuance of certificate; grounds for denial, suspension or revocation.

(A) Except as otherwise provided in division (B) of this section, the attorney general shall issue a certificate of registration or registration renewal as a telephone solicitor to any applicant or registrant that submits a completed application for the certificate, as specified under section 4719.02 of the Revised Code, and pays, as applicable, the registration fee or renewal fee prescribed pursuant to rule of the attorney general adopted under section 4719.10 of the Revised Code. All fees collected under this division shall be deposited into the state treasury to the credit of the telemarketing fraud enforcement fund created in section 4719.17 of the Revised Code. The certificate of registration or registration renewal shall expire one year after the date on which it is issued.

(B) After an adjudication conducted in accordance with Chapter 119. of the Revised Code, the attorney general may deny a certificate of registration or registration renewal or may suspend or revoke a certificate if the attorney general finds, by a preponderance of the evidence, that any of the following conditions apply:

- (1) The applicant or registrant obtained a certificate of registration or registration renewal through any false or fraudulent representation or made any material misrepresentation in any registration application.
- (2) The applicant or registrant made false promises through advertising or other means or engaged in a continued course of misrepresentations.
- (3) The applicant or registrant violated any provision of Chapter 1345. or sections 4719.01 to 4719.18 of the Revised Code or a rule adopted under that chapter or those sections.
- (4) In a court of competent jurisdiction of this state or any other state or of the United States, the applicant or registrant was convicted of, pleaded guilty to, or entered a plea of no contest for a felony, engaging in a pattern of corrupt activity, racketeering, a violation of federal or state securities law, or a theft offense as defined in section 2913.01 of the Revised Code or in a similar law of any other state or of the United States, or failed to notify the attorney general of any conviction of that type as required under division (H) of section 4719.08 of the Revised Code.
- (5) The applicant or registrant engaged in conduct that constituted improper, fraudulent, or dishonest dealings. HISTORY: 146 v S 214. Eff 12-05-96. Not analogous to former RC § 4719.03 (RS § 4371; S&C 859; 29 v 449, § 1; 88 v 397; GC § 5974; Bureau of Code Revision, 10-1-53), repealed 133 v H 153, § 1, eff 8-28-69.

§ 4719.04 Surety bond.

(A) No person shall act as a telephone solicitor without having first obtained a surety bond issued by a surety company that holds a certificate of authority to do business in this state issued by the superintendent of insurance under Title XXXIX (39) of the Revised Code, and all of the following conditions are met:

- (1) A copy of the bond is filed with the attorney general.
- (2) The bond is in favor of any person, and of the state for the benefit of any person, that is injured by any violation of any provision of sections 4719.01 to 4719.18 of the Revised Code or a rule adopted under those sections.
- (3) The bond is in the amount of fifty thousand dollars.
- (4) The bond is maintained and in effect for at least two years after the date on which the telephone solicitor ceases to engage in telephone solicitations.

(B) Any person making a claim against the bond for a violation of any provision of sections 4719.01 to 4719.18 of the Revised Code or a rule adopted under those sections may maintain a civil action against the telephone solicitor and against the surety company. The surety company is liable only for damages awarded under division (B) of section 4719.15 of the Revised Code and is not liable for attorney's fees awarded under that division or for punitive damages awarded under division (C) of that section. The aggregate liability of the surety company to all persons injured by a telephone solicitor's violation of a provision of sections 4719.01 to 4719.18 of the Revised Code or a rule adopted under those sections shall not exceed the amount of the bond.

(C) A surety company may cancel a telephone solicitor's bond after giving the telephone solicitor and the attorney general written notice of the cancellation at least thirty days before the cancellation takes effect. For two years after the cancellation takes effect, a person may make a claim against the bond under division (B) of this section for a violation that occurred while the bond was in effect.

(D) The attorney general shall provide to a surety company that issues a bond to a telephone solicitor information concerning complaints received by the attorney general against the solicitor for alleged violations of sections 4719.01 to 4719.18 of the Revised Code or a rule adopted under those sections. HISTORY: 146 v S 214. Eff 12-05-96. Not analogous to former RC § 4719.04 (RS § 4372; S&C 859; 29 v 449, § 2; GC § 5975; Bureau of Code Revision, 10-1-53), repealed 133 v H 153, § 1, eff 8-28-69.

§ 4719.05 Prior submission of representation concerning gift, award or prize.

No telephone solicitor that intends to represent or cause to be represented, expressly or impliedly, to a purchaser that the purchaser is or may be eligible to receive a gift, award, or prize, however denominated, shall fail to submit to the attorney general, any later than fourteen days prior to first making that representation, a statement setting forth all of the following, for each item mentioned:

(A) A description of the item;

(B) The item's verifiable market value and the basis for the valuation;

(C) All terms and conditions a purchaser must satisfy in order to receive the item. The statement shall be accompanied by a copy of the written confirmation provided to purchasers pursuant to section 4719.07 of the Revised Code.

(D) Verification that no payment or purchase of any kind is required to win a prize or to participate in a prize promotion, and a description of the no purchase or no-payment method of participating in the prize promotion;

(E) (1) If they are ascertainable, the odds, for a given purchaser, of receiving the item.
(2) If the odds are not ascertainable, all the factors and methods used in calculating the odds.

(F) If a purchaser is to receive fewer than all the items described by the seller:

(1) The manner in which the telephone solicitor decides which item a given purchaser is to receive;

(2) (a) If they are ascertainable, the odds, for a given purchaser, of receiving each item described;
(b) If the odds are not ascertainable, all the factors and methods used in calculating the odds.

(3) The name, address, and telephone number of each person that, during the preceding twelve months or any portion of that twelve-month period in which the telephone solicitor has done business, has received each gift, award, or prize. HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.06 Information to be disclosed by solicitor or salesperson.

(A) Within the first sixty seconds of a telephone call, and before requesting any financial information or conveying to the consumer any substantive information about a prize, product, or service, no telephone solicitor or salesperson shall fail to do all of the following:

(1) State the solicitor's or salesperson's true name and the company on whose behalf the solicitation is being made;

(2) State that the purpose of the telephone call is to effect a sale;

(3) Identify the goods or services being sold.

(B) If a sale or an agreement to purchase is completed during a telephone call, no telephone solicitor or salesperson, before requesting payment, shall fail to inform the purchaser of the rights granted under section 4719.07 of the Revised Code and disclose all of the following information in a clear and conspicuous manner:

(1) The street address and telephone number of the telephone solicitor;

(2) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of the telephone solicitation;

(3) All material restrictions, limitations, or conditions to purchase, receive, or use the goods or services that are the subject of the telephone solicitation;

(4) All material terms and conditions of the telephone solicitor's policy of making refunds, cancellations, exchanges, or repurchases;

(5) In any prize promotion, a description of the prize; its market value; all material conditions to receive or redeem the prize; the odds of being able to receive the prize and, if the odds are not calculable in advance, the factors and methods used in calculating the odds; that no purchase or payment of any kind is required to win a prize or to participate in a prize promotion; and the no-purchase or no-payment method of participating in the prize promotion, with either instructions on how to participate or an address or local or toll-free telephone number to which customers may write or call for information on how to participate.

(C) No telephone solicitor or salesperson shall fail to make an oral disclosure required by this section in a clear and intelligible manner. HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.07 Signed, written confirmation to be obtained from purchaser; exemption; cancellation rights.

(A) No verbal agreement, made by a purchaser as a result of a telephone solicitation, to purchase goods or services from a telephone solicitor is valid or legally binding unless the telephone solicitor receives from the purchaser a signed, written confirmation that complies with divisions (F) and (G) of this section and discloses in full the terms of the agreement.

(B) No purchaser is liable for payment for goods or services provided by a telephone solicitor as a result of a telephone solicitation unless the solicitor has first received a signed, written confirmation from the purchaser that complies with divisions (F) and (G) of this section. Any goods sent or services provided without a signed, written confirmation are deemed unsolicited goods or services and become the property of the purchaser free of charge or obligation.

(C) No telephone solicitor or salesperson shall make or submit a charge to a purchaser's account, including, but not limited to, a checking, savings, share, credit card, or other account for which the purchaser may be obligated financially, unless the telephone solicitor has received from the purchaser the original copy of a confirmation that is signed by the purchaser and that complies with divisions (F) and (G) of this section.

(D) No telephone solicitor that causes a written confirmation under this section to be delivered to a purchaser by a courier shall cause the courier to obtain the signed, written confirmation or payment from the purchaser or to transport the signed, written confirmation or payment to the solicitor, or shall request that the purchaser arrange for the transportation of the signed, written confirmation or payment to occur, sooner than seven days following delivery of the written confirmation to the purchaser.

(E) No telephone solicitor who receives payment in any form from a purchaser without also receiving a signed, written confirmation that complies with divisions (F) and (G) of this section shall fail to do all of the following within five business days after the receipt of the payment:

- (1) Refund all payments made, including any down payment made under the agreement;
- (2) Return any goods traded in to the telephone solicitor on account of or in contemplation of an agreement resulting from the telephone solicitation, in substantially the same condition as when received by the telephone solicitor;
- (3) Take any action necessary or appropriate to terminate promptly any security interest created in connection with the agreement.

(F) A confirmation under this section shall include, but not be limited to, all of the following:

- (1) The name of the telephone solicitor;
- (2) The number of the telephone solicitor's certificate of registration or registration renewal issued under section 4719.03 of the Revised Code;
- (3) The address and telephone number at which personal or voice contact with an employee or agent of the telephone solicitor may be made during normal business hours;
- (4) An itemized list of all prices or fees being requested, including any handling, shipping, delivery, or other charges;
- (5) The date of the transaction;
- (6) A detailed description of the goods or services being sold through the telephone solicitation;
- (7) All material terms and conditions of the telephone solicitor's policy of making refunds, cancellations, exchanges, or repurchases;
- (8) A duplicate copy, with the complete information as presented in the original confirmation, to be retained by the purchaser as proof of the terms of the agreement to purchase;
- (9) In any prize promotion, a description of the prize; its market value; all material conditions to receive or redeem the prize; the odds of being able to receive the prize and, if the odds are not calculable in advance, the factors and methods used in calculating the odds; that no purchase or payment of any kind is required to win a prize or to participate in a prize promotion; and the no-purchase or no-payment method of participating in the prize promotion, with either instructions on how to participate or an address or local or toll-free telephone number to which customers may write or call for information on how to participate;
- (10) In a type size of a minimum of twelve points, in boldface print, and in a color clearly contrasting with all other text and background on the confirmation, in a space immediately preceding the space allotted for the purchaser's signature, the following statement:

**“YOU ARE NOT OBLIGATED TO PAY ANY MONEY UNLESS YOU SIGN
THIS CONFIRMATION AND RETURN IT TO THE SELLER.”**

(G) Except as provided in division (F)(10) of this section, all text of a confirmation under division (A) of this section shall be printed in a type size of a minimum of ten points, in a color clearly contrasting with all background.

(H) A telephone solicitor that meets all of the following requirements is exempt from the provisions of divisions (A) through (G) of this section:

- (1) The telephone solicitor does not conduct a prize promotion or offer the sale of an investment opportunity;
- (2) The telephone solicitor conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the Federal Trade Commission in 16 C.F.R. part 310;
- (3) The telephone solicitor gives an unconditional full refund to any purchaser for the return of goods or cancellation of services within a period of not fewer than seven days after purchaser's receipt of the goods, agreement to the services, or receipt of two copies of the written notice of cancellation required by division (H)(4) of this section, whichever is later; and provides the refund to the purchaser within thirty days after receiving the goods returned by the purchaser or the written notice of cancellation of services.
- (4) The telephone solicitor provides to the purchaser two copies of a written notice of cancellation rights which contains the following printed in a type size of a minimum of ten points, in a color clearly contrasting with all background:
 - (a) The name of the telephone solicitor;
 - (b) The number of the telephone solicitor's certificate of registration or registration renewal issued under section 4719.03 of the Revised Code;
 - (c) The address and telephone number at which personal or voice contact with an employee or agent of the telephone solicitor may be made during normal business hours;
 - (d) An itemized list of all prices or fees being charged, including any handling, shipping, delivery, or other charges;
 - (e) The date of the transaction;
 - (f) A detailed description of the goods or services being sold;
 - (g) The following language in boldface print:

"NOTICE OF CANCELLATION RIGHTS

Because you agreed to buy these goods (or services or other appropriate description) as a result of a telephone solicitation, Ohio law gives you seven (7) days to cancel your purchase. If you cancel we must provide you a full refund within thirty (30) days. If you want to cancel, you must sign your name below and return a copy of this notice, together with any goods you have received, so they are postmarked no later than midnight of the seventh day following the date you received the goods or agreed to the services, or the seventh day following the date you received this notice, whichever is later. The notice and goods must be addressed as follows:

(Name, address, and telephone number of merchant)

I want to cancel my agreement to purchase.

(Signature)

(Name of purchaser - printed)

(Address of purchaser - printed)

(Address - city, state, zip)

(Telephone number) (Date)"

HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.08 Prohibitions.

No telephone solicitor shall do any of the following:

- (A) Obtain a certificate of registration or registration renewal under section 4719.03 of the Revised Code through any false or fraudulent representation or make any material misrepresentation in any registration or registration renewal application;
- (B) Fail to maintain a valid certificate of registration or registration renewal;
- (C) Advertise that one is registered as a telephone solicitor or represent that registration as a telephone solicitor constitutes approval or endorsement by any government or governmental office or agency;
- (D) Provide inaccurate or incomplete information to the attorney general when making an application for a certificate or certificate renewal;
- (E) Misrepresent that a person is registered or that the person has a valid certificate number;
- (F) Misrepresent, directly or by implication, any of the following information:

- (1) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of a telephone solicitation;
- (2) A material restriction, limitation, or condition to purchase, receive, or use goods or services that are the subject of a telephone solicitation;
- (3) A material aspect of the performance, efficacy, nature, or characteristics of goods or services that are the subject of a telephone solicitation;
- (4) A material aspect of the nature or terms of the telephone solicitor's refund, cancellation, exchange, or repurchase policies;
- (5) A material aspect of a prize promotion, including, but not limited to, the odds of being able to receive a prize, the nature or value of a prize, or that a purchase or payment of any kind is required to win a prize or to participate in a prize promotion;
- (6) A material aspect of an investment opportunity, including, but not limited to, risk, liquidity, earnings potential, or profitability;
- (7) The telephone solicitor's affiliation with, or endorsement by, any government or third-party organization.

(G) Make a false or misleading statement to induce a purchaser to pay for goods or services;

(H) Fail to notify the attorney general within fifteen days if, in a court of competent jurisdiction of this state or any other state or of the United States, the telephone solicitor is convicted of, pleads guilty to, or enters a plea of no contest for a felony, engaging in a pattern of corrupt activity, racketeering, a violation of federal or state securities law, or a theft offense as defined in section 2913.01 of the Revised Code or in similar law of any other state or of the United States.

(I) Intentionally block or intentionally authorize or cause to be blocked the disclosure of the telephone number from which a telephone solicitation is made. HISTORY: 146 v S 214. (Eff 12-05-96); 149 v H 312. Eff 4-9-03

§ 4719.09 Purchaser's waiver of right.

(A) No telephone solicitor or salesperson shall cause or attempt to cause a purchaser to waive a right granted under section 4719.07 or 4719.15 of the Revised Code.

(B) Any waiver by a purchaser of a right granted under section 4719.07 or 4719.15 of the Revised Code is contrary to the fundamental public policy of this state and is void and unenforceable.
HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.10 Rules.

The attorney general, in accordance with Chapter 119. of the Revised Code, may adopt reasonable rules to carry out the purposes of sections 4719.01 to 4719.180 of the Revised Code and shall adopt rules prescribing reasonable registration and registration renewal fees for the purpose of section 4719.03 of the Revised Code. HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.11 Investigations.

(A) If the attorney general, as a result of complaints or the attorney general's own inquiries, has reason to believe that a person has engaged, is engaging, or is preparing to engage in a violation of any provision of sections 4719.01 to 4719.18 of the Revised Code or a rule adopted under any provision of those sections, the attorney general may investigate the alleged violation.

(B) For purposes of an investigation under division (A) of this section, the attorney general may administer oaths, subpoena witnesses, adduce evidence, and require the production of any book, document, record, or other relevant matter. If the matter to be produced is located outside the state, the attorney general may designate representatives, including officials of the state in which the matter is located, to inspect the matter on the attorney general's behalf. The person subpoenaed may make the matter available to the attorney general at a convenient location within the state or pay the reasonable and necessary expenses for the attorney general or the attorney general's representative to examine the matter at the place where it is located, provided that expenses shall not be charged to a party not subsequently found to have engaged in a violation of a provision of sections 4719.01 to 4719.18 of the Revised Code. The attorney general may respond to similar requests from officials of other states.

(C) A person subpoenaed under this section may file a petition to extend the day on which the subpoena is to be returned or to modify or quash the subpoena, for good cause shown, in the court of common pleas of Franklin county or of the county in this state in which the person resides or in which the person's principal place of business is located. The person may file the petition at any time before the day of return specified in the subpoena or within twenty days after the service of the subpoena, whichever is the shorter period.

(D) A person subpoenaed under this section shall comply with the terms of the subpoena unless, prior to the date for return specified in the subpoena or as extended, the court orders otherwise. If a person fails without lawful excuse to obey

a subpoena or to produce relevant matter, the attorney general may apply to a court of common pleas for an order that does one or more of the following:

- (1) Adjudges the person in contempt of court;
- (2) Grants injunctive relief to restrain the person from engaging in conduct that violates a provision of sections 4719.01 to 4719.18 of the Revised Code;
- (3) Grants injunctive relief to preserve or restore the status quo;
- (4) Grants other relief that may be required until the person obeys the subpoena.

(E) If a person violates an order of a court issued under this section, the court shall punish the violation as a violation of an injunction issued under section 4719.12 of the Revised Code.

(F) If an individual refuses to testify or to produce relevant matter on the ground that the testimony or matter may incriminate the individual, the attorney general may request that a court order the individual to provide the testimony or matter. With the exception of a prosecution for perjury and an action for damages under section 4719.15 of the Revised Code, an individual who complies with a court order to provide testimony or matter, after asserting a privilege against self-incrimination to which the individual is entitled by law, shall not be subjected to a criminal proceeding on the basis of the testimony or matter required to be disclosed or testimony or matter discovered through that testimony or matter. HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.12 Action by attorney general for injunctive relief; civil penalty.

(A) Whenever it appears that a person has violated, is violating, or is about to violate a provision of sections 4719.01 to 4719.18 of the Revised Code, the attorney general may bring an action in a court of common pleas to enjoin the alleged violation. Upon a showing of a violation of a provision of those sections, the court shall grant a temporary restraining order, preliminary injunction, or permanent injunction without bond. The court may impose a civil penalty of not more than five thousand dollars for each day of violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under this section. The court may issue an order for the reimbursement of a purchaser for any loss that results from a violation of a provision of sections 4719.01 to 4719.18 of the Revised Code, for the appointment of a referee or receiver, for the sequestration of assets, or for any other appropriate relief. The court may award the attorney general all costs together with all expenses of the attorney general's investigation and reasonable attorney's fees incurred in the prosecution of the action. Moneys awarded to the attorney general under this section shall be deposited in the consumer protection enforcement fund created by section 1345.51 of the Revised Code.

(B) In an action brought by the attorney general to enforce a provision of sections 4719.01 to 4719.18 of the Revised Code or a rule adopted under any of those provisions, the attorney general may request, and the court shall impose, a civil penalty of not less than one thousand nor more than twenty-five thousand dollars for each violation of section 4719.02, 4719.05, or 4719.06, division (C), (D), or (E) of section 4719.07, section 4719.08 or division (A) of section 4719.09 of the Revised Code that the court finds the telephone solicitor or salesperson committed. A civil penalty ordered pursuant to this section shall be paid to the consumer protection enforcement fund created by section 1345.51 of the Revised Code. HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.13 Criminal proceedings.

(A) The attorney general may initiate criminal proceedings under sections 4719.01 to 4719.18 of the Revised Code by presenting evidence of criminal violations to the prosecuting attorney of any county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the attorney general may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before grand juries.

(B) The powers of the attorney general set forth in division (A) of this section are in addition to any other applicable powers of the attorney general.

(C) In a criminal proceeding in which a violation of a provision of sections 4719.01 to 4719.18 of the Revised Code is alleged, it is an affirmative defense, as defined in section 2901.05 of the Revised Code, that the person or the person's actions come within an exemption in division (B) of section 4719.01 or division (H) of section 4719.07 of the Revised Code. HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.14 Application of consumer sales practices act.

A violation of section 4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section 4719.07; section 4719.08; or division (A) of section 4719.09 of the Revised Code is an unfair or deceptive act or practice in violation of section 1345.02 of the Revised Code. HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.15 Action by purchaser.

(A) A purchaser injured by a violation of a provision of sections 4719.01 to 4719.18 of the Revised Code or a rule adopted under any provision of those sections may bring a civil action against the telephone solicitor or salesperson who

committed the violation for damages in a court of common pleas and may apply to the court for an order enjoining the violation. Upon the purchaser's showing that the telephone solicitor or salesperson has committed a violation of one of those sections or rules, the court shall grant an injunction, temporary restraining order, or other appropriate relief.

(B) If a court awards damages under division (A) of this section, the court shall award damages in an amount that is not less than the amount that the purchaser paid to the telephone solicitor or salesperson and shall order the telephone solicitor or salesperson to pay reasonable attorney's fees and court costs to the purchaser.

(C) The court may award the purchaser punitive or exemplary damages upon the purchaser's showing that the telephone solicitor or salesperson knowingly committed an act or practice that violated a provision of sections 4719.01 to 4719.18 of the Revised Code.

(D) An action under this section shall be brought within two years after the date of the telephone solicitation upon which the action is based. HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.16 Relationships between powers, remedies and penalties; burden of proving exemption.

(A) The powers, remedies, and penalties provided by sections 4719.11 to 4719.15 of the Revised Code are in addition to any other power, remedy, or penalty provided by law.

(B) The remedies and powers available to the attorney general under division (B) of section 4719.03 and sections 4719.11 to 4719.13 of the Revised Code are cumulative and concurrent, and the exercise of one remedy or power by the attorney general does not preclude or require the exercise of any other remedy or power. The attorney general is not required to use any procedure set forth in division (B) of section 4719.03 or section 4719.11 of the Revised Code prior to the exercise of a remedy or power set forth in section 4719.12 or 4719.13 of the Revised Code.

(C) In a civil proceeding or action in which a violation of a provision of sections 4719.01 to 4719.18 of the Revised Code is alleged, if the person who is alleged to have violated that provision claims that the person or the person's actions comes within an exemption in division (B) of section 4719.01 or division (H) of section 4719.07 of the Revised Code, the person has the burden of proving that the exemption applies to the person or the person's actions. HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.17 Telemarketing fraud enforcement fund.

There is hereby created in the state treasury the telemarketing fraud enforcement fund. The treasurer of state shall deposit into the fund registration fees paid pursuant to divisions (A) and (D) of section 4719.02 of the Revised Code. The consumer protection section of the office of the attorney general shall use the moneys in the fund for the administration and enforcement of the program of registration established in sections 4719.01 to 4719.18 of the Revised Code and also for educational activities that advance the purposes of sections 4719.01 to 4719.18 of the Revised Code as set forth in section 4719.18 of the Revised Code.

HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.18 Purposes and objectives of chapter; liberal construction.

(A) The purposes and objectives of sections 4719.01 to 4719.18 of the Revised Code are to protect purchasers from telephone solicitors and salespersons that commit unfair, unlawful, deceptive, or unconscionable acts or practices and to encourage the development of reasonable and fair telephone solicitation sales practices.

(B) The provisions of sections 4719.01 to 4719.18 of the Revised Code are remedial in nature and shall be liberally construed by the courts of this state in accordance with section 1.11 of the Revised Code.

HISTORY: 146 v S 214. Eff 12-05-96.

§ 4719.21 Blocking of disclosure of solicitor's telephone number.

(A) As used in this section, "telephone solicitation" and "telephone solicitor" have the same meanings as in division (A) of section 4719.01 of the Revised Code.

(B) No telephone solicitor shall intentionally block or intentionally authorize or cause to be blocked the disclosure of the telephone number from which a telephone solicitation is made.

(C) A violation of division (B) of this section is an unfair or deceptive act or practice in violation of section 1345.02 of the Revised Code. A person injured by a violation of division (B) of this section has a cause of action and is entitled to the same relief available to a consumer under section 1345.09 of the Revised Code, and all powers and remedies available to the attorney general to enforce sections 1345.01 to 1345.13 of the Revised Code are available to the attorney general to enforce division (B) of this section.

HISTORY: 149 v H 312. Eff 4-9-2003

§ 4719.99 Penalties.

Prior to July 1, 1996, whoever violates section 4719.02, 4719.05, or 4719.06, division (C), (D), or (E) of section 4719.07, section 4719.08, or division (A) of section 4719.09 of the Revised Code is guilty of a felony of the fourth degree. On or after July 1, 1996, whoever violates section 4719.02, 4719.05, or 4719.06, division (C), (D), or (E) of section 4719.07, section 4719.08, or division (A) of section 4719.09 of the Revised Code is guilty of a felony of the fifth degree. HISTORY: 146 v S 214. Eff 12-05-96.