

AN ACT

To amend sections 2917.21, 2917.31, 2917.32, and 4719.01 of the Revised Code to enhance the penalties for telephone harassment, inducing panic, and making false alarms, to amend Section 50.06 of Am. Sub. H.B. 215 of the 122nd General Assembly to increase the dollar amounts of funds earmarked for educational service centers pursuant to section 3317.11 of the Revised Code, to amend Section 50.11 of Am. Sub. H.B. 215 of the 122nd General Assembly to correct an error, to exempt from the Ohio Telephone Solicitation Law certain persons who solicit the sale of a periodical or magazine, to temporarily extend the deadline for certain municipal corporations to certify property tax levies for appearance on the November 4, 1997, election ballot, to repeal that temporary extension for certifying property tax levies effective November 5, 1997, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2917.21, 2917.31, 2917.32, and 4719.01 of the Revised Code be amended to read as follows:

Sec. 2917.21. (A) No person shall knowingly make or cause to be made a telephone call, or knowingly permit a telephone call to be made from a telephone under the person's control, to another, if the caller does any of the following:

(1) Fails to identify the caller to the recipient of the telephone call and makes the telephone call with purpose to harass, abuse, or annoy any person at the premises to which the telephone call is made, whether or not conversation takes place during the telephone call;

(2) Describes, suggests, requests, or proposes that the caller, recipient of

the telephone call, or any other person engage in; any sexual activity as defined in division (C) of section 2907.01 of the Revised Code, and the recipient of the telephone call, or another person at the premises to which the telephone call is made, has requested, in a previous telephone call or in the immediate telephone call, the caller not to make a telephone call to the recipient of the telephone call or to the premises to which the telephone call is made;

(3) During the telephone call, violates section 2903.21 of the Revised Code;

(4) Knowingly states to the recipient of the telephone call that the caller intends to cause damage to or destroy public or private property, and the recipient of the telephone call, any member of the family of the recipient of the telephone call, or any other person who resides at the premises to which the telephone call is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;

(5) Knowingly makes the telephone call to the recipient of the telephone call, to another person at the premises to which the telephone call is made, or to the premises to which the telephone call is made, and the recipient of the telephone call, or another person at the premises to which the telephone call is made, previously has told the caller not to call the premises to which the telephone call is made or not to call any persons at the premises to which the telephone call is made.

(B) No person shall make or cause to be made a telephone call, or permit a telephone call to be made from a telephone under the person's control, with purpose to abuse, threaten, annoy, or harass another person.

(C)(1) Whoever violates this section is guilty of telephone harassment.

(2) A violation of division (A)(1), (2), (3), or (5) or (B) of this section is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense involving the same person, recipient, or premises.

(3) Except as otherwise provided in division (C)(3) of this section, a violation of division (A)(4) of this section is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense. If a violation of division (A)(4) of this section results in economic harm of five hundred dollars or more but less than five thousand dollars, telephone harassment is a felony of the fifth degree. If a violation of division (A)(4) of this section results in economic harm of five thousand dollars or more but less than one hundred thousand dollars, telephone harassment is a felony of the fourth degree. If a violation of division (A)(4) of this section

results in economic harm of one hundred thousand dollars or more, telephone harassment is a felony of the third degree.

(D) AS USED IN THIS SECTION, "ECONOMIC HARM" MEANS ALL DIRECT, INCIDENTAL, AND CONSEQUENTIAL PECUNIARY HARM SUFFERED BY A VICTIM AS A RESULT OF CRIMINAL CONDUCT. "ECONOMIC HARM" INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

(1) ALL WAGES, SALARIES, OR OTHER COMPENSATION LOST AS A RESULT OF THE CRIMINAL CONDUCT;

(2) THE COST OF ALL WAGES, SALARIES, OR OTHER COMPENSATION PAID TO EMPLOYEES FOR TIME THOSE EMPLOYEES ARE PREVENTED FROM WORKING AS A RESULT OF THE CRIMINAL CONDUCT;

(3) THE OVERHEAD COSTS INCURRED FOR THE TIME THAT A BUSINESS IS SHUT DOWN AS A RESULT OF THE CRIMINAL CONDUCT;

(4) THE LOSS OF VALUE TO TANGIBLE OR INTANGIBLE PROPERTY THAT WAS DAMAGED AS A RESULT OF THE CRIMINAL CONDUCT.

(E) Nothing in this section prohibits a person from making a telephone call to a debtor that is in compliance with the "Fair Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act," 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended.

Sec. 2917.31. (A) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that such report or warning is false;

(2) Threatening to commit any offense of violence;

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(B) Division (A)(1) of this section does not apply to any person conducting an authorized fire or emergency drill.

(C) Whoever violates this section is guilty of inducing panic; Except as otherwise provided in this division, inducing panic is a misdemeanor of the first degree. If a violation of this section results in physical harm to any person, inducing panic is a felony of the fourth degree. If a violation of this section results in economic harm of five hundred dollars or more but less

than five thousand dollars, inducing panic is a felony of the fifth degree. If violation of this section results in economic harm of five thousand dollars or more but less than one hundred thousand dollars, inducing panic is a felony of the fourth degree. If violation of this section results in economic harm of one hundred thousand dollars or more, inducing panic is a felony of the third degree.

(D) AS USED IN THIS SECTION, "ECONOMIC HARM" MEANS ALL DIRECT, INCIDENTAL, AND CONSEQUENTIAL PECUNIARY HARM SUFFERED BY A VICTIM AS A RESULT OF CRIMINAL CONDUCT. "ECONOMIC HARM" INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

(1) ALL WAGES, SALARIES, OR OTHER COMPENSATION LOST AS A RESULT OF THE CRIMINAL CONDUCT;

(2) THE COST OF ALL WAGES, SALARIES, OR OTHER COMPENSATION PAID TO EMPLOYEES FOR TIME THOSE EMPLOYEES ARE PREVENTED FROM WORKING AS A RESULT OF THE CRIMINAL CONDUCT;

(3) THE OVERHEAD COSTS INCURRED FOR THE TIME THAT A BUSINESS IS SHUT DOWN AS A RESULT OF THE CRIMINAL CONDUCT;

(4) THE LOSS OF VALUE TO TANGIBLE OR INTANGIBLE PROPERTY THAT WAS DAMAGED AS A RESULT OF THE CRIMINAL CONDUCT.

Sec. 2917.32. (A) No person shall do ~~either~~ ANY of the following:

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.

(B) This section does not apply to any person conducting an authorized fire or emergency drill.

(C) Whoever violates this section is guilty of making false alarms. Except as otherwise provided in this division, making false alarms is a misdemeanor of the first degree. If a violation of this section results in economic harm of five hundred dollars or more but less than five thousand dollars, making false alarms is a felony of the fifth degree. If a violation of this section results in economic harm of five thousand dollars or more but

less than one hundred thousand dollars, making false alarms is a felony of the fourth degree. If a violation of this section results in economic harm of one hundred thousand dollars or more, making false alarms is a felony of the third degree.

(D) AS USED IN THIS SECTION, "ECONOMIC HARM" MEANS ALL DIRECT, INCIDENTAL, AND CONSEQUENTIAL PECUNIARY HARM SUFFERED BY A VICTIM AS A RESULT OF CRIMINAL CONDUCT. "ECONOMIC HARM" INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

(1) ALL WAGES, SALARIES, OR OTHER COMPENSATION LOST AS A RESULT OF THE CRIMINAL CONDUCT;

(2) THE COST OF ALL WAGES, SALARIES, OR OTHER COMPENSATION PAID TO EMPLOYEES FOR TIME THOSE EMPLOYEES ARE PREVENTED FROM WORKING AS A RESULT OF THE CRIMINAL CONDUCT;

(3) THE OVERHEAD COSTS INCURRED FOR THE TIME THAT A BUSINESS IS SHUT DOWN AS A RESULT OF THE CRIMINAL CONDUCT;

(4) THE LOSS OF VALUE TO TANGIBLE OR INTANGIBLE PROPERTY THAT WAS DAMAGED AS A RESULT OF THE CRIMINAL CONDUCT.

Sec. 4719.01. (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. 78l, and is registered or is exempt from registration under 15 U.S.C.A. 78l(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 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 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~~ MAGAZINES distributed as controlled circulation ~~publications~~ 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, that is subject to regulation by the public utilities commission, or its affiliate;

(17) A travel agency or tour promoter that is registered in compliance with section 1333.96 of the Revised Code when soliciting within the scope of the agency's or promoter's registration;

(18) 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;

(19)(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.

(20) 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.

(21) 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;

(22)(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.

(23) 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.

(24) 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 ~~that~~ notice signed by the purchaser.

(25) 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.

(26) 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.

(27) 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.

(28) 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.

SECTION 2. That existing sections 2917.21, 2917.31, 2917.32, and 4719.01 of the Revised Code are hereby repealed.

SECTION 3. That Section 50.06 of Am. Sub. H.B. 215 of the 122nd General Assembly be amended to read as follows:

"Sec. 50.06. School Foundation Basic Allowance

Of the foregoing appropriation item 200-501, School Foundation Basic Allowance, up to \$6,000,000 in each year of the biennium shall be expended by the State Board of Education for the extended service allowance which shall be the teachers' salaries pursuant to the schedule contained in section 3317.13 of the Revised Code, plus fifteen per cent for retirement and sick leave; up to \$425,000 shall be expended in each year of the biennium for court payments pursuant to section 2151.357 of the Revised Code; up to \$150,000 in each year of the biennium shall be expended pursuant to section 3313.64 of the Revised Code; the Superintendent of Public Instruction shall expend in each year of the biennium the amount necessary for the purpose

of making payments for the vocational education pupil recomputation pursuant to division (M) of section 3317.024 of the Revised Code and the provisions under the section headed "Vocational Education Pupil Recomputation" in this act and the special education pupil recomputation pursuant to division (I) of section 3317.023 of the Revised Code; up to \$100,000 shall be expended in each year of the biennium for supplemental payments pursuant to the section headed "Supplemental Payment" of this act; an amount shall be available each year of the biennium for the cost of the reappraisal guarantee pursuant to section 3317.04 of the Revised Code; up to \$9,000,000 in each year of the biennium shall be reserved for payments pursuant to sections 3317.026, 3317.027, and 3317.028 of the Revised Code; up to \$2,000,000 in each year of the biennium shall be reserved for Youth Services tuition payments pursuant to division (F) of section 3317.024 of the Revised Code, up to \$1,300,000 in fiscal year 1998 and \$1,300,000 in fiscal year 1999 for small district aid; for districts with an ADM of less than 100, in addition to other funds, an amount shall be paid equal to the amount above the actual fiscal year 1996 and 1997 amounts for basic aid, including any guarantee aid the district would have received in fiscal years 1996 and 1997 had the amendments to divisions (D) and (E) of section 3317.0212 of the Revised Code, as amended in this act, been in effect; up to \$500,000 in each fiscal year shall be used to make payments to school districts that lose enrollment due to the implementation of the community schools program pursuant to this act; \$500,000 shall be transferred each year by the Director of Budget and Management to appropriation item 200-422, School Management Assistance, to help the Department of Education administer, monitor, and implement the fiscal emergency and fiscal watch provisions under Chapter 3316. of the Revised Code. Up to ~~\$44,530,000~~ 45,330,000 in fiscal year 1998 and up to ~~\$46,995,608~~ 47,795,600 in fiscal year 1999 shall be reserved to fund the state reimbursement of educational service centers pursuant to section 3317.11 of the Revised Code; and up to \$1,200,000 in fiscal year 1998 shall be used by the Superintendent of Public Instruction to make incentive payments in any amounts the superintendent deems necessary to joint educational service centers established pursuant to section 3311.053 of the Revised Code. These supplemental payments may be made in fiscal year 1998 to defray the direct or indirect expenses of dissolving participating educational service centers. Each joint educational service center seeking a supplemental payment in fiscal year 1998 shall submit to the Superintendent of Public Instruction any documents and information that the Superintendent may require no later than December 31, 1997.

Of the foregoing appropriation item, 200-501, School Foundation Basic Allowance, up to \$1,000,000 in each fiscal year shall be used by the Department of Education for a pilot program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section titled "Private Treatment Facility Pilot Project."

The remaining portion of this appropriation item shall be expended for basic state aid for the public schools of city, local, and exempted village school districts."

SECTION 4. That existing Section 50.06 of Am. Sub. H.B. 215 of the 122nd General Assembly is hereby repealed.

SECTION 5. That Section 50.11 of Am. Sub. H.B. 215 of the 122nd General Assembly be amended to read as follows:

"Sec. 50.11. Supplemental Unit Allowance

(A) As used under this heading:

(1) "Basic aid" has the same meaning as in division (A)(1) of section 3317.0212 of the Revised Code.

(2) "Adjusted formula amount" has the same meaning as in division (A)(6) of section 3313.98 of the Revised Code.

(3) "ADM" has the same meaning as in section 3317.02 of the Revised Code.

(4) "Per pupil basic aid" means a district's basic aid divided by its ADM.

(5) "Dollar amount" means the amount shown in the following table for the corresponding type of unit and the appropriate fiscal year:

TYPE OF UNIT	DOLLAR AMOUNT
	FY 1998
Division (M) of R.C. 3317.024	\$5,345
Division (N) of R.C. 3317.024	\$5,702
Division (O)(1) of R.C. 3317.024	\$2,293
Division (O)(2) of R.C. 3317.024	\$2,523

(6) "FY" means fiscal year.

(7) "Average unit amount" means the amount shown in the following table for the corresponding type of unit and the appropriate fiscal year:

TYPE OF UNIT	AVERAGE UNIT AMOUNT
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	FY
	1998
Division (M) of R.C. 3317.024	\$4,937
Division (N) of R.C. 3317.024	\$5,360
Division (O)(1) of R.C. 3317.024	\$2,129
Division (O)(2) of R.C. 3317.024	\$2,343

(B) In the case of each unit described in division (M), (N), or (O) of section 3317.024 of the Revised Code and allocated to a city, local, or exempted village school district, the Department of Education, in addition to the amounts specified in such divisions, shall pay a supplemental unit allowance equal to the sum of the following amounts:

- (1) An amount equal to 50% of the average unit amount for the unit;
- (2) An amount equal to the percentage of the dollar amount for the unit that is obtained by dividing the district's basic aid per pupil by its adjusted formula amount.

If, prior to the fifteenth day of May of a fiscal year, a school district's basic aid is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing a new basic aid per pupil amount under division (B)(1) of this section. Such new basic aid per pupil amount shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise calculated under this section.

(C)(1) In the case of each unit described in division (M) of section 3317.024 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the Department, in addition to the amount specified in such division and in section 3317.16 of the Revised Code, shall pay a supplemental unit allowance of ~~\$3,321~~ 4,937 in fiscal year 1998 and ~~\$4,861~~ in fiscal year 1999.

(2) In the case of each unit described in division (N) of section 3317.024 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the Department, in addition to the amount specified in such division and in section 3317.16 of the Revised Code, shall pay a supplemental unit allowance of ~~\$3,542~~ 5,360 in fiscal year 1998 and ~~\$5,277~~ in fiscal year 1999.

(3) In the case of each unit described in division (O)(1) of section 3317.024 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the Department, in addition to the

amounts specified in such division and in section 3317.16 of the Revised Code, shall pay a supplemental unit allowance of ~~\$941~~ 2,129 in fiscal year 1998 and ~~\$1,401~~ in fiscal year 1999.

(4) In the case of each unit described in division (O)(2) of section 3317.024 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the Department, in addition to the amounts specified in such division and in section 3317.16 of the Revised Code, shall pay a supplemental unit allowance of ~~\$873~~ 2,343 in fiscal year 1998 and ~~\$1,406~~ in fiscal year 1999."

SECTION 6. That existing Section 50.11 of Am. Sub. H.B. 215 of the 122nd General Assembly is hereby repealed.

SECTION 7. (A) As used in this section:

(1) "Qualified municipal corporation" means a municipal corporation the legislative authority of which failed to timely certify a resolution proposing the question of renewing a qualifying property tax levy to the board of elections for appearance on the November 4, 1997, election ballot.

(2) "Qualifying property tax levy" means a property tax levy that a qualifying municipal corporation currently is authorized to levy; that expires at the end of 1997; that is levied for the purpose of current operating expenses; and that raises at least \$50,000 in revenue, which constitutes at least forty-five per cent of total general fund revenue from voter-approved property tax levies.

(B) A qualifying municipal corporation may adopt a resolution proposing to place the question of renewing a qualifying property tax levy on the ballot at the election held on November 4, 1997, and certify the resolution to the proper board of elections not later than ten days after the effective date of this act, notwithstanding the requirement under section 5705.25 of the Revised Code to certify such resolutions not later than seventy-five days prior to that election.

The board of elections shall perform all acts otherwise required by section 5705.25 and Title XXXV of the Revised Code to place the question of renewing the qualifying tax levy on the ballot at the November 4, 1997, election.

(C) This section is remedial in nature. If, prior to this act becoming law, the legislative authority of a qualified municipal corporation adopts a resolution proposing the question of renewing a qualifying property tax levy for placement on the ballot at the November 4, 1997, election, and the

legislative authority certifies a copy of the resolution to the board of elections, the certification, and the proper preparations of the board of elections to place the question on the ballot at that election, are hereby ratified, and the question may appear on the ballot at that election.

(D) This section is hereby repealed November 5, 1997.

SECTION 8. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to enable certain municipal corporations to avoid incurring operating deficits during 1998 by permitting late certification of local tax levies. Therefore, this act shall go into immediate effect.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____