

By Senator Campbell

32-225-05

1 A bill to be entitled
2 An act relating to consumer call center
3 services; providing a short title; providing
4 definitions; requiring each customer sales call
5 center and customer service call center to
6 disclose certain information to customers;
7 requiring that calls to a foreign country be
8 rerouted to a call center located in the United
9 States at the request of the customer;
10 prohibiting a call center from sending a
11 customer's personal identification information
12 to a foreign country without the express
13 written consent of the customer; providing that
14 a customer service employee or call center that
15 violates the act commits a deceptive and unfair
16 trade practice in violation of part II of ch.
17 501, F.S.; providing remedies; providing that
18 an individual whose property or person is
19 injured may institute a civil action for
20 injunctive relief, civil damages, and financial
21 loss; providing for attorney's fees and costs;
22 providing that a civil action does not depend
23 on whether a criminal prosecution has been or
24 will be instituted and that the rights and
25 remedies are in addition to any other rights
26 and remedies provided by law; providing that
27 any person who willfully and without
28 authorization sells or transfers, or attempts
29 to sell or transfer, personal identification
30 under specified circumstances commits the
31 offense of fraudulent sale or transfer of

1 personal identification information, a felony
2 of the third degree; providing penalties;
3 providing an effective date.
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5 Be It Enacted by the Legislature of the State of Florida:
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7 Section 1. (1) This section may be cited as the "Call
8 Center Customer's Protection Act."

9 (2) As used in this section, the term:

10 (a) "Customer" means any person located in this state
11 who places a telephone call or sends an electronic mail
12 message to, or who receives a telephone call or an electronic
13 mail message from, a customer sales call center or customer
14 service call center.

15 (b) "Customer sales call center" means an entity, the
16 primary purpose of which includes initiating or receiving
17 telephone calls or electronic mail messages for the purpose of
18 initiating a sale, such as soliciting sales, receiving
19 reservations, or receiving and taking orders.

20 (c) "Customer service call center" means an entity,
21 the primary purpose of which includes initiating or receiving
22 telephone calls or electronic mail messages on behalf of a
23 customer for the purpose of providing services or other
24 benefits, or furnishing information or technical assistance
25 necessary in connection with providing those services or other
26 benefits, such as providing customer services, reactivating
27 dormant accounts, conducting surveys or research, or
28 collecting receivables.

29 (d) "Customer service employee" means a person
30 employed by or working on behalf of a customer sales call
31 center or customer service call center.

1 (e) "Personal identification information" means any
2 name or number that may be used, alone or in conjunction with
3 any other information, to identify a specific customer,
4 including:
5 1. A name, social security number, date of birth,
6 driver's license or identification number issued by a state or
7 the Federal Government, alien registration number, government
8 passport number, employer or taxpayer identification number,
9 Medicaid or food stamp account number, bank account number,
10 credit card or debit card number, or personal identification
11 number or code assigned to the holder of a debit card by the
12 issuer to permit authorized electronic use of such card;
13 2. Unique biometric data, such as a fingerprint, voice
14 print, retina or iris image, or other unique physical
15 representation;
16 3. A unique electronic identification number, address,
17 password, or routing code;
18 4. Telecommunication identifying information or access
19 device; or
20 5. Any other number or information that can be used to
21 access a person's financial resources.
22 (3) Each person, company, firm, association,
23 corporation, subsidiary of a corporation, or other business
24 entity or governmental agency that uses a customer sales call
25 center or customer service call center to initiate or receive
26 telephone calls or electronic mail messages from customers
27 shall require that, within the first 30 seconds of any
28 telephone call or electronic mail message and before the
29 customer discloses any personal identification information,
30 the customer service employee initiating or taking the
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1 telephone call or electronic mail message shall provide the
2 customer with the following information:

3 (a) The name or registered alias of the customer
4 service employee;

5 (b) The name of the employer of the customer service
6 employee;

7 (c) The name and location of the municipality, state,
8 and country of the call center from which the customer service
9 employee is placing or receiving the telephone call or
10 electronic mail message; and

11 (d) If applicable, the name and telephone number of an
12 authorized representative of the business or governmental
13 agency using the services of the customer sales call center or
14 customer service call center.

15 (4) Any telephone call or electronic mail message to
16 or from a customer sales call center or customer service call
17 center in a foreign country shall be rerouted to a customer
18 sales call center or customer service call center located in
19 the United States, if such a request is made by the customer.

20 (5) A customer sales call center or customer service
21 call center may not send a customer's personal identification
22 information to any third party, including a third party in a
23 foreign country without the express written consent of the
24 customer.

25 (6) Any customer service employee, customer sales call
26 center, or customer service call center that violates this
27 section commits a deceptive and unfair trade practice in
28 violation of part II of chapter 501, Florida Statutes, and is
29 subject to the penalties and remedies provided under that
30 chapter.

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1 (7) Any customer whose property or person is injured
2 as a result of a violation of subsection (5) may:

3 (a) Institute a civil action to enjoin and restrain
4 future acts that constitute a violation of subsection (5) and
5 to recover financial loss. Financial loss under this paragraph
6 includes actual losses, lost wages, attorney's fees, and other
7 costs incurred by the customer in correcting his or her credit
8 history or credit rating or incurred in connection with any
9 criminal, civil, or administrative proceeding brought against
10 the customer resulting from the misappropriation of the
11 customer's personal identification information.

12 (b) Bring a civil suit for damages in an amount of up
13 to \$5,000 for each incident, or three times the amount of
14 actual damages, whichever amount is greater. The court, in an
15 action brought under this paragraph, may award reasonable
16 attorney's fees to the prevailing party.

17 (c) The venue for a civil action brought under this
18 subsection shall be the county in which the plaintiff resides
19 or in any county in which any part of the alleged violation of
20 subsection (5) took place, regardless of whether the defendant
21 was ever actually present in that county. A civil action filed
22 under this subsection must be brought within 5 years after the
23 violation occurred.

24 (d) A civil action may be filed under this subsection
25 regardless of whether a criminal prosecution has been or will
26 be instituted for the acts that are the subject of the civil
27 action. The rights and remedies provided by this subsection
28 are in addition to any other rights and remedies provided by
29 law.

30 (8) Any customer service employee who willfully and
31 without authorization violates subsection (5) by transferring

1 or selling personal identification information concerning a
2 customer without first obtaining that customer's express
3 written consent commits the offense of fraudulent transfer of
4 personal identification, a felony of the third degree,
5 punishable as provided in section 775.082, section 775.083, or
6 section 775.084, Florida Statutes.

7 Section 2. This act shall take effect July 1, 2005.

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10 SENATE SUMMARY

11 Requires each customer sales call center and customer
12 service call center to disclose certain information to
13 customers. Directs that calls to a foreign country be
14 rerouted to a call center located in the United States at
15 the request of the customer. Prohibits a call center from
16 sending a customer's personal identification information
17 to a foreign country without the express written consent
18 of the customer. Provides that if a customer service
19 employee or a call center violates this act, the person
20 or entity commits a deceptive and unfair trade practice
21 in violation of part II of ch. 501, F.S. Provides that an
22 individual whose property or person is injured may
23 institute a civil action for injunctive relief, civil
24 damages, and financial loss. Provides for attorney's
25 fees. Provides that a civil action does not depend on
26 whether a criminal prosecution has been or will be
27 instituted and that the rights and remedies are in
28 addition to any other rights and remedies provided by
29 law. Declares that any person who willfully and without
30 authorization sells or transfers, or attempts to sell or
31 transfer, personal identification under specified
circumstances commits the offense of fraudulent sale or
transfer of personal identification information, a felony
of the third degree.