

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

**CHAPTER 186**  
**HOUSE BILL 2825**

AN ACT

AMENDING SECTIONS 44-1271, 44-1272, 44-1273 AND 44-1276, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 9, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 44-1276.01, 44-1276.02 AND 44-1276.03; AMENDING SECTIONS 44-1279 AND 44-1281, ARIZONA REVISED STATUTES; RELATING TO TELEPHONE SOLICITATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 44-1271, Arizona Revised Statutes, is amended to  
3 read:

4 44-1271. Definitions

5 In this article, unless the context otherwise requires:

6 1. "BUSINESS OPPORTUNITY"

7 (a) MEANS THE SALE OR LEASE, OR OFFER FOR SALE OR LEASE, OF ANY GOODS  
8 OR SERVICES TO A CONSUMER FOR AN INITIAL PAYMENT OF FIVE HUNDRED DOLLARS OR  
9 GREATER FOR THE PURPOSE OF ENABLING THE CONSUMER TO START OR OPERATE A  
10 BUSINESS, WHICH SALE OR LEASE IS NOT LIMITED TO SALES INITIATED OR MADE BY  
11 THE TELEPHONE.

12 (b) INCLUDES A SOLICITATION OF CONSUMERS IN WHICH THE SELLER  
13 REPRESENTS ONE OR MORE OF THE FOLLOWING:

14 (i) THAT THE CONSUMER MAY OR WILL EARN AN AMOUNT IN EXCESS OF THE  
15 INITIAL PAYMENT AS A RESULT OF THE PURCHASE.

16 (ii) THAT A MARKET EXISTS FOR ANY GOODS TO BE MADE OR SOLD OR SERVICES  
17 TO BE RENDERED BY THE CONSUMER.

18 (iii) THAT THE SELLER WILL PROVIDE LOCATIONS OR ASSIST THE CONSUMER IN  
19 FINDING LOCATIONS FOR THE USE OR OPERATION OF VENDING MACHINES, RACKS,  
20 DISPLAY CASES OR OTHER SIMILAR DEVICES OR CURRENCY-OPERATED AMUSEMENT  
21 MACHINES OR DEVICES OR ANY OTHER DEVICES.

22 (iv) THAT THE SELLER MAY PURCHASE FROM THE CONSUMER GOODS TO BE MADE  
23 OR SERVICES TO BE RENDERED BY THE CONSUMER.

24 (v) THAT THE SELLER GUARANTEES, EITHER CONDITIONALLY OR  
25 UNCONDITIONALLY, THAT THE CONSUMER WILL DERIVE INCOME FROM THE BUSINESS  
26 OPPORTUNITY OR THAT THE SELLER WILL REFUND ALL OR PART OF THE PRICE PAID FOR  
27 THE BUSINESS OPPORTUNITY OR REPURCHASE ANY OF THE GOODS SUPPLIED BY THE  
28 SELLER IF THE CONSUMER IS UNSATISFIED WITH THE BUSINESS OPPORTUNITY.

29 (vi) THAT THE SELLER OR AN ENTITY ASSOCIATED WITH THE SELLER WILL  
30 PROVIDE A SALES PROGRAM OR MARKETING PROGRAM TO THE CONSUMER UNLESS THE  
31 MARKETING PROGRAM IS OFFERED IN CONJUNCTION WITH THE LICENSING OF A  
32 REGISTERED TRADEMARK OR SERVICE MARK, IF THE TRADEMARK OR SERVICE MARK HAS  
33 BEEN EFFECTIVELY REGISTERED UNDER FEDERAL LAW.

34 (c) DOES NOT INCLUDE:

35 (i) THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF AN ONGOING  
36 BUSINESS WHERE THE OWNER OF THAT BUSINESS SELLS AND INTENDS TO SELL ONLY THAT  
37 ONE BUSINESS OPPORTUNITY.

38 (ii) THE NOT-FOR-PROFIT SALE OF SALES DEMONSTRATION EQUIPMENT,  
39 MATERIALS OR SAMPLES FOR A TOTAL PRICE OF FIVE HUNDRED DOLLARS OR LESS.

40 (iii) THE SALE OF A FRANCHISE AS DEFINED BY THE FEDERAL TRADE  
41 COMMISSION REGULATIONS AS SET FORTH IN 16 CODE OF FEDERAL REGULATIONS SECTION  
42 436.1.

43 ~~1.~~ 2. "Consumer" means a person who is solicited by a seller or  
44 solicitor.

45 3. "GOODS" MEANS ANY MERCHANDISE, EQUIPMENT, PRODUCTS, SUPPLIES OR  
46 MATERIALS.

1           4. "INITIAL PAYMENT" MEANS THE TOTAL AMOUNT THE PURCHASER BECOMES  
2 OBLIGATED TO PAY TO THE SELLER AND TO ANY THIRD PARTY FOR GOODS, SERVICES OR  
3 MERCHANDISE RELATED TO A PREVIOUSLY PURCHASED BUSINESS OPPORTUNITY, EITHER  
4 PRIOR TO OR AT THE TIME OF THE DELIVERY OF ANY GOODS, SERVICES OR MERCHANDISE  
5 WITHIN SIX MONTHS AFTER THE COMMENCEMENT OF THE OPERATION OF THE BUSINESS  
6 OPPORTUNITY BY THE PURCHASER.

7           ~~2-~~ 5. "Licensed associated person of a securities, commodities or  
8 investments broker" means any associated person registered or licensed by the  
9 national association of securities dealers, a self-regulatory organization as  
10 defined in the securities exchange act of 1934 (15 United States Code section  
11 78c) or an official or agency of this state or of any other state of the  
12 United States.

13           ~~3-~~ 6. "Licensed securities commodities or investments broker, dealer  
14 or investment advisor" means a person licensed or registered as a securities  
15 commodities or investments broker, dealer or investment advisor by the  
16 securities and exchange commission, the national association of securities  
17 dealers, a self-regulatory organization as defined in the securities exchange  
18 act of 1934 (15 United States Code section 78c) or an official or agency of  
19 this state or of any other state of the United States.

20           ~~4-~~ 7. "Manager" means a person who supervises the work of a  
21 solicitor.

22           ~~5-~~ 8. "Merchandise" means objects, wares, goods, commodities,  
23 intangibles, real estate, securities or services.

24           ~~6-~~ 9. "Person" means:

25           (a) A natural person or the person's legal representative.

26           (b) A partnership, a limited liability company, a limited liability  
27 partnership or a domestic or foreign corporation.

28           (c) A company, trust, business entity or association.

29           (d) An agent, employee, salesman, partner, officer, director, member,  
30 stockholder, associate or trustee.

31           (e) Any other legal entity or any group associated in fact although  
32 not a legal entity.

33           ~~7-~~ 10. "Premium" means any gift, bonus, prize, award or other  
34 incentive or inducement to purchase merchandise.

35           ~~8-~~ 11. "Principal" means an owner or an officer of a corporation or  
36 limited liability company, a general partner of a partnership, a sole  
37 proprietor of a sole proprietorship, a partner of a limited liability  
38 partnership, a trustee of a trust and any other individual who controls,  
39 manages or supervises a telephone sales operation.

40           ~~9-~~ 12. "Prize" means anything offered or purportedly offered and  
41 given or purportedly given to a person by chance. Chance exists if a person  
42 is guaranteed to receive an item and at the time of the offer or purported  
43 offer the seller or solicitor does not identify the specific item that the  
44 person will receive.

45           ~~10-~~ 13. "Prize promotion" means a sweepstakes or other game of chance  
46 or an oral or written express or implied representation that a person has

1 won, has been selected to receive or may be eligible to receive a prize or  
2 purported prize.

3 ~~11.~~ 14. "Recovery service" means any business or other practice in  
4 which a person represents or implies that the person will recover or assist  
5 in recovering for a fee any amount of money that a consumer has provided to a  
6 seller pursuant to a telephone solicitation.

7 ~~12.~~ 15. "Seller" means a person who, directly or through a solicitor,  
8 does any of the following:

9 (a) Initiates telephone calls to provide or arrange to provide  
10 merchandise to consumers in exchange for payment.

11 (b) Solicits by telephone in response to inquiries from a consumer  
12 generated by a notification or communication sent or delivered to the  
13 consumer that represents or implies that:

14 (i) The consumer has been specially selected in any manner to receive  
15 the notification or communication or the offer contained in the notification  
16 or communication.

17 (ii) The consumer will receive a premium if the consumer calls the  
18 person.

19 (iii) If the consumer purchases merchandise from the person, the  
20 consumer will also receive additional or other merchandise, the same as or  
21 different from the type of merchandise purchased, without any additional  
22 charge or for a price that the person represents or implies is less than the  
23 regular price of the merchandise.

24 (iv) The person is offering for sale the services of a recovery  
25 service.

26 (v) The person is offering to make a loan, to arrange or assist in  
27 arranging a loan or to assist in providing information that may lead to  
28 obtaining a loan unless no payment of any kind is made until the loan  
29 proceeds are disbursed to the borrower.

30 (vi) The consumer will receive a credit card if the consumer pays a  
31 fee for the card before receiving the card.

32 (vii) ~~THE PERSON IS OFFERING FOR SALE IDENTITY PROTECTION ASSISTANCE.~~

33 (c) Solicits by telephone in response to inquiries generated by  
34 advertisements on behalf of the person that represent or imply that:

35 (i) The person is offering to sell the services of a recovery service.

36 (ii) The person is offering to make a loan, to arrange or assist in  
37 arranging a loan or to assist in providing information that may lead to  
38 obtaining a loan unless no payment of any kind is made until the loan  
39 proceeds are disbursed to the borrower.

40 (iii) The consumer will receive a credit card if the consumer pays a  
41 fee for the card before receiving the card.

42 (d) ~~SOLICITS CONSUMERS TO PURCHASE A BUSINESS OPPORTUNITY OR~~  
43 ~~MERCHANDISE RELATED TO A BUSINESS OPPORTUNITY THROUGH ANY MEANS INCLUDING THE~~  
44 ~~TELEPHONE, INTERNET OR MAIL OR OTHER HARD COPY TEXT OR THROUGH ANY~~  
45 ~~ELECTRONIC, WIRELESS OR OTHER COMMUNICATION MEDIA.~~

1       ~~13.~~ 16. "Solicitor" means a person, other than a seller or employee of  
2 a seller, who uses a telephone to seek sales or rentals of merchandise on  
3 behalf of a seller or uses a telephone to verify sales or rentals for a  
4 seller.

5       ~~14.~~ 17. "Subscriber" means a person who subscribes to residential  
6 telephone service from a local exchange company and any person who lives or  
7 subscribes with that person.

8       ~~15.~~ 18. "Telephone solicitation" means any voice communication to a  
9 telephone number in this state from a live operator, announcing device or  
10 otherwise to offer merchandise for sale or rent.

11       Sec. 2. Section 44-1272, Arizona Revised Statutes, is amended to read:

12       44-1272. Telephone seller; registration; business  
13               opportunities; late filing penalty

14       A. A seller shall file a verified registration statement with the  
15 secretary of state before the seller solicits any consumer from a location in  
16 this state or any consumer located in this state. Each principal of the  
17 seller shall sign the registration statement, have the signature notarized  
18 and file the statement with the secretary of state along with the annual  
19 registration fee prescribed by section 44-1275. The registration statement  
20 expires on June 30 of each year and shall be annually renewed by completing a  
21 new registration statement within thirty days before expiration **AND PAYING**  
22 **THE ANNUAL REGISTRATION FEE.** If a seller is delinquent in filing its annual  
23 registration statement, the secretary of state may assess a late filing  
24 penalty **NOT TO EXCEED ONE HUNDRED DOLLARS** when the seller submits its annual  
25 registration statement. **IF A SELLER FAILS TO RENEW ITS ANNUAL REGISTRATION**  
26 **STATEMENT BEFORE SEPTEMBER 30 OF EACH YEAR, THE SELLER IS UNREGISTERED.**

27       B. If, before the expiration of a seller's annual registration, there  
28 is a change in any of the information required by subsection C of this  
29 section, within ten days of the change the seller shall file a supplemental  
30 statement with the secretary of state, except that a seller shall only update  
31 quarterly any changes in solicitors hired by the seller.

32       C. Each registration statement shall contain all of the following  
33 information:

34           1. The true legal name of the seller.

35           2. The name under which the seller is doing business or intends to do  
36 business.

37           3. The seller's business form and state of organization.

38           4. If the seller is a corporation or limited liability company, a copy  
39 of its articles of incorporation and bylaws and amendments to the bylaws. If  
40 the seller is a partnership or limited liability partnership, a copy of the  
41 partnership agreement. If the seller is operating under a fictitious  
42 business name, the location where the fictitious name has been registered.

43           5. The complete street address of the physical location of the  
44 principal place of business of the seller, the complete street address of all  
45 other locations from which the seller will be conducting business and all  
46 telephone numbers for telephones at these locations.

1           6. For each principal and manager, the true legal name, residence  
2 address, telephone number and date of birth and a clear and legible copy of  
3 the current driver license or valid government issued photo identification  
4 card. A seller is not required to submit the information required in this  
5 section for the seller's employees.

6           7. For each manager, the address of the business location for which  
7 the manager is responsible.

8           8. For each solicitor, the solicitor's true legal name, business  
9 address and telephone number and, for each principal and manager of a  
10 solicitor, the true legal name, residence address, telephone number and date  
11 of birth and a clear and legible copy of the current driver license or valid  
12 government issued photo identification card. A solicitor is not required to  
13 submit the information required in this section for the solicitor's  
14 employees.

15           9. The name and address of the seller's agent in this state who is  
16 authorized to receive service of process in this state.

17           10. A copy of the bond filed with the state treasurer pursuant to  
18 section 44-1274.

19           11. Whether a principal or manager:

20           (a) Has been convicted or pleaded no contest to a felony or  
21 misdemeanor involving moral turpitude or a violation of this article.

22           (b) Has been held liable in a civil action, either by final judgment  
23 or by entry of a stipulated judgment, if the civil action alleged fraud,  
24 embezzlement, racketeering, fraudulent conversion or misappropriation of  
25 property or a violation of this article or the use of untrue or misleading  
26 representations in an attempt to sell or dispose of real or personal property  
27 or the use of unfair, unlawful or deceptive business practices.

28           (c) Is subject to a currently effective injunction or restrictive  
29 order relating to a business activity as a result of an action brought by a  
30 public agency or department, including an action affecting a vocational  
31 license. The statement shall include the name of the court, the date of the  
32 conviction, the judgment, order or injunction and, if applicable, the name of  
33 the governmental agency that filed the action resulting in the conviction,  
34 judgment, order or injunction.

35           12. A copy of any:

36           (a) Script, outline or presentation the seller will require or suggest  
37 that a solicitor use, except that if the seller does not require or suggest a  
38 script, outline or presentation, a statement that no such document is  
39 required or suggested.

40           (b) Sales information and literature provided by the seller to a  
41 solicitor or described by the seller for use by the solicitor, including  
42 scripts, outlines, presentations, information on how to conduct telephone  
43 sales, sample instructions, sample closings, product information and contest  
44 or premium award information.

45           (c) Sales information and any other literature provided by the seller  
46 to a consumer in connection with any solicitation.

1           13. IF THE SELLER IS SOLICITING CONSUMERS TO PURCHASE A BUSINESS  
2 OPPORTUNITY OR MERCHANDISE RELATED TO A BUSINESS OPPORTUNITY:

3           (a) THE BUSINESS EXPERIENCE OF THE SELLER, INCLUDING THE LENGTH OF  
4 TIME THAT THE SELLER HAS SOLD THE BUSINESS OPPORTUNITY BEING OFFERED TO  
5 CONSUMERS OR SOLD ANY OTHER BUSINESS OPPORTUNITY TO CONSUMERS.

6           (b) THE NAMES OF ALL BUSINESSES FOR WHICH EACH PRINCIPAL OR MANAGER  
7 PREVIOUSLY SOLD BUSINESS OPPORTUNITIES.

8           (c) THE DATES THAT EACH PRINCIPAL OR MANAGER PREVIOUSLY SOLD BUSINESS  
9 OPPORTUNITIES.

10          14. IF A SOLICITATION INVOLVES A BUSINESS OPPORTUNITY OR MERCHANDISE  
11 RELATED TO A BUSINESS OPPORTUNITY:

12          (a) A FACTUAL DESCRIPTION OF THE BUSINESS OPPORTUNITY OFFERED TO BE  
13 SOLD AND OF THE MERCHANDISE, TRAINING AND ASSISTANCE THAT THE SELLER WILL  
14 PROVIDE TO THE CONSUMER.

15          (b) A STATEMENT DESCRIBING ANY GOODS, SERVICES, SIGNS OR FIXTURES  
16 RELATING TO THE ESTABLISHMENT OR THE OPERATION OF THE BUSINESS OPPORTUNITY  
17 THAT THE CONSUMER IS REQUIRED TO PURCHASE, LEASE OR RENT DIRECTLY OR  
18 INDIRECTLY FROM THE SELLER.

19          D. If a seller expressly represents or implies to any consumer,  
20 directly or through a solicitor, that the consumer is or may be eligible to  
21 receive any premium, the seller shall submit with the registration statement  
22 another statement setting forth for each premium mentioned:

23           1. A description of the premium.

24           2. The value or worth of the premium and the basis for the valuation.

25           3. All terms and conditions a consumer must satisfy in order to  
26 receive the premium.

27           4. The odds of being able to receive the premium, and if the odds are  
28 not calculable in advance, the factors used in calculating the odds.

29           5. If the consumer will receive fewer than all of the premiums  
30 described by the seller:

31           (a) The manner in which the seller decides which premium the consumer  
32 will receive.

33           (b) The odds of being able to receive each premium, and if the odds  
34 are not calculable in advance, the factors used in calculating the odds.

35           (c) The name and address of each person who within the past twelve  
36 months has received the premium having the greatest value and the premium  
37 with the smallest odds of being received.

38          E. If the seller expressly represents or implies to any consumer,  
39 directly or through a solicitor, that the seller can or may be able to make a  
40 loan, arrange a loan, assist in arranging a loan or assist in providing  
41 information that may lead to obtaining a loan, the seller shall submit with  
42 the registration statement another statement setting forth:

43           1. For the previous twenty-four months, the names and addresses of any  
44 person who lent money to:

45           (a) Consumers who responded to the solicitations of the seller's  
46 predecessor or the seller's officers or owners or those persons having

1 present management responsibilities or to companies with which they were  
2 associated.

3 (b) The seller's predecessor or the seller's officers or owners or  
4 those persons having present management responsibilities or to those  
5 companies with which they were associated for them to lend to consumers who  
6 responded to solicitations.

7 2. For the twelve months after the date of the registration, the names  
8 and addresses of all persons who informed the seller that they may be able to  
9 lend money to consumers solicited by the seller or to the seller for the  
10 seller to lend to consumers who respond to the seller's representations that  
11 the seller can make a loan, arrange a loan, assist in arranging a loan or  
12 assist in providing information that can lead to obtaining a loan.

13 3. Copies of all contracts between the seller and lenders or  
14 prospective lenders who may lend money:

15 (a) To the seller to lend to consumers who, in conjunction with the  
16 seller's business, respond to the seller's representations that the seller  
17 can make a loan, arrange a loan, assist in arranging a loan or assist in  
18 providing information that can lead to obtaining a loan.

19 (b) Directly to consumers to whom the seller may represent that it can  
20 arrange or assist in providing information that can lead to obtaining a loan.

21 F. If any change is made to any script, outline, presentation, sales  
22 information or literature to be used by a seller during any solicitation, the  
23 seller shall submit the new or revised material before it is used.

24 G. Compliance with the registration and filing requirements of this  
25 article by a seller does not constitute an approval or endorsement by this  
26 state of the seller's registration documents or conduct.

27 Sec. 3. Section 44-1273, Arizona Revised Statutes, is amended to read:  
28 44-1273. Limited exemptions

29 A. The following sellers are not required to register and, except for  
30 section 44-1278, subsection B and section 44-1282, are exempt from this  
31 article:

32 1. A person acting within the scope of a license issued under  
33 title 20.

34 2. A person who is registered with the secretary of state pursuant to  
35 section 44-6552 or who is exempt from registration pursuant to section  
36 44-6553.

37 3. A person making telephone solicitations without the intent to  
38 complete and who does not complete the sales presentation during the  
39 telephone solicitation but completes the sales presentation at a later  
40 face-to-face meeting between the solicitor and the consumer provided that the  
41 later face-to-face meeting is not for the purpose of collecting the payment  
42 or delivering any item purchased.

43 4. A person who after making a telephone contact with a consumer sends  
44 the consumer descriptive literature and does not require payment before the  
45 consumer's review of the descriptive literature and the person is not  
46 conducting a solicitation involving any of the following:

1 (a) The sale of an investment or an opportunity for an investment that  
2 is not registered with any state or federal authority.

3 (b) A prize promotion or premium.

4 (c) A recovery service.

5 (d) A BUSINESS OPPORTUNITY OR MERCHANDISE RELATED TO A BUSINESS  
6 OPPORTUNITY.

7 5. A person or solicitor for a person who operates a retail business  
8 establishment under the same name as the name used in the solicitation of  
9 sales by telephone, if on a continuing basis all of the following apply:

10 (a) Merchandise is displayed and offered for sale or services are  
11 offered for sale and provided at the person's business establishment.

12 (b) At least fifty per cent of the person's business involves the  
13 buyer obtaining the merchandise at the person's business establishment.

14 (c) The person holds a transaction privilege tax license pursuant to  
15 title 42, chapter 5.

16 6. A person or solicitor for a person soliciting another business if  
17 all of the following ~~occur~~ APPLY:

18 (a) At least fifty per cent of the person's dollar volume consists of  
19 repeat sales to existing businesses.

20 (b) The person does not conduct a prize promotion that requires or  
21 implies that to win a consumer must pay money or purchase merchandise.

22 (c) Neither the person nor any of the person's principals has within  
23 twenty years been convicted in any state of a felony or crime of moral  
24 turpitude, breach of trust, fraud, theft, dishonesty or violation of  
25 telephone solicitation laws, been subject to a final judgment in a civil  
26 action involving fraud, deceit or misrepresentation or been subject to an  
27 administrative order involving fraud, deceit, misrepresentation or any  
28 violation of telephone solicitations laws of any agency of this state,  
29 another state, the federal government, a territory of the United States or  
30 another country.

31 (d) THE PERSON IS NOT SELLING A BUSINESS OPPORTUNITY OR MERCHANDISE  
32 RELATED TO A BUSINESS OPPORTUNITY.

33 7. A person or solicitor on behalf of a person who solicits sales by  
34 periodically publishing and delivering a catalog to consumers if all of the  
35 following apply:

36 (a) The catalog contains a written description or illustration of each  
37 item offered for sale and the price of each item offered for sale.

38 (b) The catalog includes the business address or home office address  
39 of the person.

40 (c) The catalog includes at least twenty-four pages of written  
41 material and illustrations.

42 (d) The catalog is distributed in more than one state and has an  
43 annual circulation by mail of at least two hundred fifty thousand.

44 B. The following sellers shall file a limited registration statement  
45 pursuant to section 44-1272.01 and, except for sections 44-1278 and 44-1282,  
46 are exempt from this article:

1           1. A person acting within the scope of a license issued under title 6  
2 or 32 or by the corporation commission pursuant to this title, except persons  
3 licensed under title 6, chapter 13.

4           2. If soliciting within the scope of the license, any licensed  
5 securities, commodities or investments broker or dealer or investment advisor  
6 or any licensed associated person of a securities, commodities or investments  
7 broker or dealer or investment advisor.

8           3. An issuer or a subsidiary of an issuer that has a class of  
9 securities that is subject to section 12 of the securities exchange act of  
10 1934 (15 United States Code sections 78a through 78mm) and that is either  
11 registered or exempt from registration under paragraph (A), (B), (C), (E),  
12 (F), (G) or (H) or subsection (g)(2) of section 12 of the act. A subsidiary  
13 of an issuer that qualifies for exemption under this paragraph is not exempt  
14 unless at least sixty per cent of the voting power of the subsidiary's shares  
15 is owned by the qualifying issuer or issuers.

16           4. A person certificated or regulated by the corporation commission  
17 pursuant to title 40, chapter 2 or a subsidiary of that person or a federal  
18 communications commission licensed cellular telephone company or radio  
19 telecommunication services provider.

20           5. A person making telephone solicitations for a newspaper of general  
21 circulation, a magazine or a licensed or franchised cable television system.

22           6. An issuer or subsidiary of an issuer that is subject to  
23 registration under chapter 12, article 6 or 7 of this title or that is exempt  
24 from registration under section 44-1843, subsection A, paragraph 1, 2, 3, 4,  
25 5, 7 or 9.

26           7. A person making telephone solicitations for the sale or purchase of  
27 books, recordings, videocassettes and similar goods through a membership  
28 group or club regulated by the federal trade commission or through a  
29 contractual plan or arrangement such as a continuity plan, subscription  
30 arrangement, series arrangement or single purchase under which the seller  
31 ships goods to a consumer who has consented in advance to receive those goods  
32 and the recipient is given the opportunity to review goods for at least seven  
33 days and to receive a full refund for return of undamaged goods.

34           8. A person or solicitor for a person when soliciting previous  
35 customers, if all of the following apply:

36           (a) The person is not offering to sell or selling a security that is  
37 not registered with any state or federal authority.

38           (b) The person makes the solicitation under the same name as the name  
39 used to sell merchandise to the customer previously.

40           (c) The person does not operate a recovery service.

41           (d) The person does not conduct a prize promotion that requires a  
42 consumer to, or implies that to win a consumer must, pay money or purchase  
43 merchandise.

44           (e) The person has not, or any of its principals have not, within  
45 twenty years been convicted in any state of a felony or a crime of moral  
46 turpitude, breach of trust, fraud, theft, dishonesty or a violation of

1 telephone solicitation laws, been subject to a final judgment in a civil  
2 action involving fraud, deceit or misrepresentation or been subject to an  
3 administrative order involving fraud, deceit, misrepresentation or any  
4 violation of telephone solicitation laws of any agency of this state, another  
5 state, the federal government, a territory of the United States or another  
6 country.

7 9. A person making telephone solicitations exclusively for the purpose  
8 of the sale of telephone answering services to be provided by that person or  
9 that person's employer.

10 10. Any bank holding company, bank, financial institution, trust  
11 company, savings and loan association, credit union, mortgage banker or  
12 broker, consumer lender or insurer that is licensed or supervised by an  
13 official or agency of this state, any other state or the United States,  
14 including any parent, subsidiary or affiliate of these institutions.

15 11. A person providing telemarketing sales service continuously for at  
16 least five years under the same ownership and control that derives  
17 seventy-five per cent of its gross telemarketing sales revenues from  
18 contracts with persons exempted by this section. A seller using an exempt  
19 telemarketing sales service is not exempt unless otherwise qualifying for an  
20 exemption under this section.

21 C. On request by the secretary of state, the director of the  
22 department of insurance shall provide a current list in a mutually acceptable  
23 electronic format to the secretary of state of the requested licensees  
24 described in subsection A, paragraph 1 of this section that includes all of  
25 the following information:

26 1. The true legal name of the seller.

27 2. All of the names under which the seller is doing business or  
28 intends to do business.

29 3. The complete street address of the physical location of the  
30 principal place of business of the seller and the telephone number for the  
31 location.

32 4. The name and address of the seller's agent who is authorized to  
33 receive service of process in this state.

34 D. In any civil proceeding alleging a violation of this article, the  
35 burden of proving an exemption or an exception from a definition is on the  
36 person claiming the exemption or exception. In any criminal proceeding in  
37 which a violation of this article is alleged, the burden of producing  
38 evidence to support a defense based on an exemption or an exception from a  
39 definition is on the person claiming the exemption or exception.

40 E. Any person or solicitor exempted in part from this article by this  
41 section shall not make or submit a charge to a consumer's credit card account  
42 or a consumer's checking, savings, share or similar account unless any of the  
43 following ~~apply~~ APPLIES:

44 1. The person provides that the consumer may receive a full refund for  
45 the return of undamaged and unused goods or a cancellation of services by

1 providing notice to the person within seven days after the date that the  
2 consumer receives the merchandise and the person processes:

3 (a) A full refund within thirty days after the date that the person  
4 receives the returned merchandise from the consumer.

5 (b) A full refund within thirty days after the purchaser of services  
6 cancels an order for the services or a pro rata refund for any services not  
7 yet performed for the consumer.

8 2. The person provides the consumer with a signed copy of a written  
9 contract that includes the person's name, address and business telephone  
10 number and that fully describes the merchandise offered by the person, the  
11 total price to be charged by the person and any terms or conditions affecting  
12 the sale.

13 3. The person is an organization that is registered with the secretary  
14 of state pursuant to section 44-6552 or that is exempt from registration  
15 pursuant to section 44-6553.

16 Sec. 4. Section 44-1276, Arizona Revised Statutes, is amended to read:

17 44-1276. Required disclosures; payment for goods;  
18 identification of seller or solicitor; cancellation  
19 of telephone solicitation or business opportunity  
20 sale; notice of right to cancel

21 A. Before beginning the solicitation or sales presentation over the  
22 telephone, the seller or solicitor shall disclose to the consumer:

23 1. The complete street address of the physical location from which the  
24 seller or solicitor is making the telephone solicitation and the complete  
25 street address of the seller's principal location.

26 2. The legal name of the seller on whose behalf the solicitor is  
27 making the solicitation.

28 3. The solicitor's true legal name.

29 4. That the purpose of the call is to sell merchandise.

30 B. During any solicitation or sales presentation made by a seller or  
31 solicitor and in any written correspondence provided to the consumer as part  
32 of the solicitation, the seller or solicitor shall clearly and conspicuously  
33 disclose to the consumer:

34 1. Any charge, including the amount for the use of any premium being  
35 offered.

36 2. Any material restriction, requirement, condition, limitation or  
37 exception that is associated with the use of the premium.

38 3. Any charge connected with the sale of merchandise.

39 4. The time period within which any premium will be delivered.

40 5. The consumer's right to cancel the transaction pursuant to  
41 subsection C.

42 C. In addition to any right to otherwise revoke an offer, the consumer  
43 may cancel a telephone solicitation sale up to midnight of the third business  
44 day after the receipt of the merchandise or premium, whichever is later.

1 D. No telephone solicitation sale OR SALE OF A BUSINESS OPPORTUNITY OR  
2 MERCHANDISE RELATED TO A BUSINESS OPPORTUNITY is effective unless the  
3 consumer is both:

4 1. Advised orally and in writing of the legal name, telephone number  
5 and complete street address of the physical location of the seller.

6 2. Advised orally of the right of cancellation along with a written  
7 notice containing the following information:

8 Notice of Cancellation

9 1. You may cancel this order without any penalty or  
10 obligation within three business days from the delivery of the  
11 merchandise or premium (gift, bonus, prize or award), whichever  
12 is later.

13 2. If you cancel, any payments made by you will be  
14 returned within ten days after the receipt by the seller of your  
15 notice of cancellation.

16 3. To cancel this transaction, mail or deliver a signed  
17 and dated copy of your cancellation notice or send a telegram to  
18 \_\_\_\_\_ at \_\_\_\_\_.

19 (Name of seller) (Address of seller's place of business)

20 4. If you cancel, any merchandise or premium delivered to  
21 you must be returned at our expense to \_\_\_\_\_  
22 (Name of seller)

23 at \_\_\_\_\_  
24 (Address of seller's place of business)

25 no later than twenty-one business days after the receipt of this  
26 merchandise or premium, whichever is later.

27 E. The notice of cancellation given by the consumer is effective if it  
28 indicates the intention on the part of the consumer not to be bound by the  
29 telephone solicitation sale OR SALE OF A BUSINESS OPPORTUNITY OR MERCHANDISE  
30 RELATED TO A BUSINESS OPPORTUNITY.

31 F. A provision of a contract, offer or agreement that waives a  
32 consumer's right of cancellation under this section is void and has no  
33 effect.

34 G. A SOLICITOR SHALL ACCURATELY IDENTIFY THEMSELVES ON CALLER  
35 IDENTIFICATION WHEN MAKING A TELEPHONE SOLICITATION CALL TO A RESIDENTIAL OR  
36 MOBILE TELEPHONE IN ARIZONA.

37 ~~G.~~ H. For the purposes of this section, business day does not include  
38 Sunday or a federal or state holiday.

39 Sec. 5. Title 44, chapter 9, article 6, Arizona Revised Statutes, is  
40 amended by adding sections 44-1276.01, 44-1276.02 and 44-1276.03, to read:

41 44-1276.01. Business opportunities; disclosure to consumer

42 A. A SELLER WHO OFFERS OR SELLS A BUSINESS OPPORTUNITY AND WHO IS  
43 REQUIRED TO FILE A REGISTRATION STATEMENT PURSUANT TO SECTION 44-1272 SHALL  
44 NOT SOLICIT A CONSUMER FROM A LOCATION IN THIS STATE OR A CONSUMER LOCATED IN  
45 THIS STATE UNLESS THE SELLER PROVIDES A WRITTEN DISCLOSURE DOCUMENT TO THE  
46 CONSUMER. THE SELLER SHALL DELIVER THE WRITTEN DISCLOSURE DOCUMENT TO THE

1 CONSUMER AT LEAST FIVE BUSINESS DAYS BEFORE THE EARLIER OF THE CONSUMER'S  
2 EXECUTION OF A CONTRACT IMPOSING A BINDING LEGAL OBLIGATION ON THE CONSUMER  
3 OR THE PAYMENT OF ANY MONIES, RECEIPT OF ANYTHING OF VALUE OR AUTHORIZATION  
4 TO CHARGE A CREDIT OR DEBIT CARD.

5 B. THE DISCLOSURE DOCUMENT SHALL HAVE A COVER SHEET THAT CONTAINS ONLY  
6 THE FOLLOWING INFORMATION:

7 1. A TITLE AND STATEMENT THAT ARE PRINTED IN AT LEAST TEN POINT BOLD  
8 TYPE AND THAT SHALL APPEAR AS FOLLOWS:

9 DISCLOSURES REQUIRED BY ARIZONA LAW

10 THE INFORMATION CONTAINED IN THIS DISCLOSURE HAS NOT BEEN  
11 VERIFIED BY THE STATE. IF YOU HAVE ANY QUESTIONS ABOUT YOUR  
12 PURCHASE OF THIS BUSINESS OPPORTUNITY, SEEK PROFESSIONAL ADVICE  
13 BEFORE YOU SIGN A CONTRACT OR MAKE ANY PAYMENT. YOU ARE TO BE  
14 PROVIDED FIVE BUSINESS DAYS TO REVIEW THIS DOCUMENT BEFORE  
15 SIGNING A CONTRACT OR MAKING ANY PAYMENT TO THE SELLER OR THE  
16 SELLER'S REPRESENTATIVE.

17 2. THE SELLER'S NAME AND PRINCIPAL BUSINESS ADDRESS AND THE DATE OF  
18 THE DISCLOSURE DOCUMENT.

19 C. THE DISCLOSURE DOCUMENT SHALL CONTAIN AT LEAST THE FOLLOWING  
20 INFORMATION, WHICH SHALL BE PRESENTED IN A SINGLE DOCUMENT IN THE FOLLOWING  
21 ORDER:

22 1. A FACTUAL DESCRIPTION OF THE BUSINESS OPPORTUNITY THAT THE SELLER  
23 IS OFFERING TO SELL TO THE CONSUMER, INCLUDING A FULL AND DETAILED  
24 DESCRIPTION OF THE ACTUAL GOODS OR SERVICES THAT THE SELLER UNDERTAKES TO  
25 SUPPLY TO OR PERFORM FOR THE CONSUMER AND THE ACTUAL SERVICES THAT THE  
26 CONSUMER UNDERTAKES TO PERFORM, INCLUDING COMPLIANCE WITH PROCEDURES  
27 ESTABLISHED BY THE SELLER REGARDING THE OPERATION OF THE BUSINESS.

28 2. A STATEMENT OF THE EXACT SUM OF THE TOTAL MONIES THAT THE SELLER  
29 REQUIRES THE CONSUMER TO PAY TO A SPECIFICALLY NAMED PERSON OR ANY OTHER  
30 PERSON KNOWN TO THE SELLER WHO RECEIVES ANY CONSIDERATION INCIDENT TO THE  
31 TRANSACTION OR WHICH THE SELLER OR ANY PERSON AFFILIATED WITH THE SELLER  
32 COLLECTS IN WHOLE OR IN PART ON BEHALF OF ANY PARTY IN ORDER TO OBTAIN OR  
33 COMMENCE THE BUSINESS OPPORTUNITY OPERATION, INCLUDING INITIAL FEES,  
34 DEPOSITS, DOWN PAYMENTS, PREPAID RENT, EQUIPMENT AND INVENTORY PURCHASES OR  
35 MARKETING EXPENSES. THE SELLER SHALL DISCLOSE IF ALL OR PART OF THESE FEES  
36 OR DEPOSITS ARE RETURNABLE UNDER CERTAIN CONDITIONS OR IF ALL OR PART OF THE  
37 FEES OR DEPOSITS ARE NOT RETURNABLE.

38 3. A STATEMENT DESCRIBING ANY RECURRING MONIES THAT THE CONSUMER IS OR  
39 MAY BE ASKED TO PAY TO ANY PERSON IN CONNECTION WITH CARRYING ON THE BUSINESS  
40 OPPORTUNITY, INCLUDING ADVERTISING, TRAINING, ROYALTY, LEASE OR RENTAL FEES  
41 OR EQUIPMENT OR INVENTORY PURCHASES.

42 4. A STATEMENT ADVISING CONSUMERS AS FOLLOWS, "AS REQUIRED BY ARIZONA  
43 LAW, THE SELLER HAS FILED ITS ANNUAL REGISTRATION STATEMENT WITH THE ARIZONA  
44 SECRETARY OF STATE."

45 5. A STATEMENT ADVISING CONSUMERS OF ONE OF THE FOLLOWING:

1 (a) "AS REQUIRED BY ARIZONA LAW, THE SELLER HAS SECURED A BOND ISSUED  
2 BY \_\_\_\_\_ (NAME AND ADDRESS OF SURETY COMPANY), A SURETY COMPANY  
3 AUTHORIZED TO DO BUSINESS IN ARIZONA."

4 (b) "AS REQUIRED BY ARIZONA LAW, THE SELLER HAS DEPOSITED WITH THE  
5 ARIZONA STATE TREASURER A CASH DEPOSIT IN THE AMOUNT OF ONE HUNDRED THOUSAND  
6 DOLLARS."

7 6. A STATEMENT DISCLOSING THE NAME OF EACH PERSON, INCLUDING THE  
8 SELLER AND ITS AFFILIATES, WITH WHOM THE SELLER DIRECTLY OR INDIRECTLY  
9 REQUIRES OR ADVISES THE CONSUMER TO DO BUSINESS.

10 7. A STATEMENT DESCRIBING ANY GOODS, SERVICES, REAL ESTATE,  
11 INVENTORIES, SIGNS OR FIXTURES RELATING TO THE ESTABLISHMENT OR THE OPERATION  
12 OF THE BUSINESS OPPORTUNITY THAT THE SELLER DIRECTLY OR INDIRECTLY REQUIRES  
13 THE CONSUMER TO PURCHASE, LEASE OR RENT. IF THE PURCHASE, LEASE OR RENTAL IS  
14 MADE FROM SPECIFIC PERSONS INCLUDING THE SELLER, A LIST OF THE NAMES AND  
15 ADDRESSES OF EACH PERSON SHALL APPEAR ON THE DISCLOSURE DOCUMENT OR IN A  
16 SEPARATE DOCUMENT THAT IS DELIVERED TO THE CONSUMER WITH THE DISCLOSURE  
17 DOCUMENT IF THE EXISTENCE OF THE SEPARATE DOCUMENT IS DISCLOSED IN THE  
18 DISCLOSURE DOCUMENT.

19 8. A STATEMENT OF ALL MATERIAL TERMS AND CONDITIONS OF ANY FINANCING  
20 ARRANGEMENT THE SELLER OR ANY PERSON AFFILIATED WITH THE SELLER OFFERS,  
21 DIRECTLY OR INDIRECTLY, TO THE CONSUMER AND A DESCRIPTION OF THE TERMS OF  
22 PAYMENT TO THE SELLER FROM ANY PERSON OFFERING FINANCING TO A PROSPECTIVE  
23 CONSUMER AND FROM ANY PERSON ARRANGING FOR FINANCING FOR A PROSPECTIVE  
24 CONSUMER.

25 9. A STATEMENT THAT THE SELLER MUST PROVIDE A WRITTEN NOTICE OF  
26 CANCELLATION PURSUANT TO SECTION 44-1276.

27 44-1276.02. Business opportunity contracts in writing; required  
28 information

29 A. A BUSINESS OPPORTUNITY CONTRACT OR AGREEMENT SHALL BE IN WRITING  
30 AND SHALL BE GIVEN TO THE CONSUMER WITH THE DISCLOSURE DOCUMENT REQUIRED  
31 UNDER SECTION 44-1276.01.

32 B. A BUSINESS OPPORTUNITY CONTRACT OR AGREEMENT SHALL INCLUDE THE  
33 FOLLOWING:

34 1. THE TERMS AND CONDITIONS OF PAYMENT.

35 2. A FULL AND DETAILED DESCRIPTION OF THE ACTS OR SERVICES THAT THE  
36 SELLER UNDERTAKES TO PERFORM FOR THE CONSUMER.

37 3. THE SELLER'S PRINCIPAL BUSINESS ADDRESS AND THE NAME AND ADDRESS OF  
38 ITS AGENT IN THIS STATE THAT IS AUTHORIZED TO RECEIVE SERVICE OF PROCESS.

39 4. THE APPROXIMATE DELIVERY DATE OF ANY GOODS THAT THE SELLER IS TO  
40 DELIVER TO THE CONSUMER AND AN APPROXIMATE TIMETABLE FOR PERFORMANCE OF  
41 SERVICES NECESSARY TO BEGIN SUBSTANTIAL OPERATION OF THE BUSINESS.

42 44-1276.03. Business opportunity contract cancellation

43 A CONSUMER MAY CANCEL A BUSINESS OPPORTUNITY CONTRACT OR AGREEMENT WITH  
44 A SELLER FOR ANY REASON AT ANY TIME WITHIN TEN BUSINESS DAYS AFTER THE DATE  
45 THAT THE CONSUMER SIGNS THE CONTRACT OR AGREEMENT OR THE DATE THAT THE SELLER

1 NOTIFIES THE CONSUMER IN WRITING THAT THE CONTRACT OR AGREEMENT IS ACCEPTED  
2 BY THE SELLER, WHICHEVER IS LATER.

3 Sec. 6. Section 44-1279, Arizona Revised Statutes, is amended to read:  
4 44-1279. Civil remedies

5 A consumer may rescind a sale by an unregistered seller at any time.  
6 The consumer may recover any PURCHASE MONIES PAID TO THE UNREGISTERED SELLER,  
7 financial damages caused by the unregistered seller and reasonable attorney  
8 fees and costs.

9 Sec. 7. Section 44-1281, Arizona Revised Statutes, is amended to read:  
10 44-1281. Duties of secretary of state

11 The secretary of state shall:

12 1. Prescribe and publish the forms and adopt the rules necessary to  
13 carry out this article.

14 2. Refer to the attorney general or county attorney for investigation  
15 any matter ~~which~~ THAT the secretary of state has reason to believe  
16 constitutes a violation of this article.

17 3. Preserve for five years from the date of filing all information  
18 required to be filed pursuant to this article, after which the information  
19 shall be destroyed. This information is public information and is open to  
20 public inspection.

21 4. WITH REFERRAL, PROVIDE THE ATTORNEY GENERAL WITH A COMPLETE COPY OF  
22 ALL REGISTRATION STATEMENTS AND ATTACHMENTS, INCLUDING RENEWALS AND  
23 SUPPLEMENTAL STATEMENTS, THAT ARE FILED PURSUANT TO SECTION 44-1272 BY A  
24 SELLER OF BUSINESS OPPORTUNITIES OR MERCHANDISE RELATED TO BUSINESS  
25 OPPORTUNITIES.

APPROVED BY THE GOVERNOR APRIL 4, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2012.