

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 6104. Actions by private persons**(a) In general**

Any person adversely affected by any pattern or practice of telemarketing which violates any rule of the Commission under section 6102 of this title, or an authorized person acting on such person's behalf, may, within 3 years after discovery of the violation, bring a civil action in an appropriate district court of the United States against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of \$50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule of the Commission under section 6102 of this title, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(b) Notice

The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(c) Action by Commission or the Bureau of Consumer Financial Protection

Whenever a civil action has been instituted by or on behalf of the Commission or the Bureau of Consumer Financial Protection for violation of any rule prescribed under section 6102 of this title, no person may, during the pendency of such action instituted by or on behalf of the Commission or the Bureau of Consumer Financial Protection, institute a civil action against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(d) Cost and fees

The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(e) Construction

Nothing in this section shall restrict any right which any person may have under any statute or common law.

(f) Venue; service of process

Any civil action brought under subsection (a) of this section in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28. Process in such an

action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(Pub. L. 103-297, § 5, Aug. 16, 1994, 108 Stat. 1549; Pub. L. 111-203, title X, § 1100C(c), July 21, 2010, 124 Stat. 2111.)

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-203 inserted “or the Bureau of Consumer Financial Protection” after “Commission” wherever appearing.

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§ 6105. Administration and applicability of chapter**(a) In general**

Except as otherwise provided in sections 6102(d), 6102(e), 6103, and 6104 of this title, this chapter shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this chapter.

(b) Actions by Commission

The Commission shall prevent any person from violating a rule of the Commission under section 6102 of this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this chapter. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this chapter.

(c) Effect on other laws

Nothing contained in this chapter shall be construed to limit the authority of the Commission under any other provision of law.

(d) Enforcement by Bureau of Consumer Financial Protection

Except as otherwise provided in sections 6102(d), 6102(e), 6103, and 6104 of this title, and subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.], this chapter shall be enforced by the Bureau of Consumer Financial Protection under subtitle E of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5561 et seq.], with respect to the offering or provision of a consumer financial product or service subject to that Act.

(Pub. L. 103-297, § 6, Aug. 16, 1994, 108 Stat. 1549; Pub. L. 111-203, title X, § 1100C(d), July 21, 2010, 124 Stat. 2111.)

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subssecs. (a) and (b), is act Sept. 26, 1914, ch. 311, 38 Stat.

717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

This chapter, referred to in subsecs. (c) and (d), was in the original “this Act”, meaning Pub. L. 103-297, Aug. 16, 1994, 108 Stat. 1545, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Consumer Financial Protection Act of 2010, referred to in subsec. (d), is title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 1955. Subtitles B (§§1021-1029A) and E (§§1051-1058) of the Act are classified generally to parts B (§5511 et seq.) and E (§5561 et seq.), respectively, of subchapter V of chapter 53 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2010—Subsec. (d). Pub. L. 111-203 added subsec. (d).

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Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 6106. Definitions

For purposes of this chapter:

(1) The term “attorney general” means the chief legal officer of a State.

(2) The term “Commission” means the Federal Trade Commission.

(3) The term “State” means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(4) The term “telemarketing” means a plan, program, or campaign which is conducted to induce purchases of goods or services, or a charitable contribution, donation, or gift of money or any other thing of value, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description, or illustration of the goods or services offered for sale,

(B) includes the business address of the seller,

(C) includes multiple pages of written material or illustrations, and

(D) has been issued not less frequently than once a year,

where the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation.

(Pub. L. 103-297, §7, Aug. 16, 1994, 108 Stat. 1550; Pub. L. 107-56, title X, §1011(b)(3), Oct. 26, 2001, 115 Stat. 396.)

AMENDMENTS

2001—Par. (4). Pub. L. 107-56 inserted “, or a charitable contribution, donation, or gift of money or any other thing of value,” after “services” in introductory provisions.

§ 6107. Enforcement of orders

(a) General authority

Subject to subsections (b) and (c) of this section, the Federal Trade Commission may bring a criminal contempt action for violations of orders of the Commission obtained in cases brought under section 53(b) of this title.

(b) Appointment

An action authorized by subsection (a) of this section may be brought by the Federal Trade Commission only after, and pursuant to, the appointment by the Attorney General of an attorney employed by the Commission, as a special assistant United States Attorney.

(c) Request for appointment

(1) Appointment upon request or motion

A special assistant United States Attorney may be appointed under subsection (b) of this section upon the request of the Federal Trade Commission or the court which has entered the order for which contempt is sought or upon the Attorney General’s own motion.

(2) Timing

The Attorney General shall act upon any request made under paragraph (1) within 45 days of the receipt of the request.

(d) Termination of authority

The authority of the Federal Trade Commission to bring a criminal contempt action under subsection (a) of this section expires 2 years after the date of the first promulgation of rules under section 6102 of this title. The expiration of such authority shall have no effect on an action brought before the expiration date.

(Pub. L. 103-297, §9, Aug. 16, 1994, 108 Stat. 1550.)

§ 6108. Review

Upon the expiration of 5 years following the date of the first promulgation of rules under section 6102 of this title, the Commission shall review the implementation of this chapter and its effect on deceptive telemarketing acts or practices and report the results of the review to the Congress.

(Pub. L. 103-297, §10, Aug. 16, 1994, 108 Stat. 1551.)

CHAPTER 87A—NATIONAL DO-NOT-CALL REGISTRY

Sec.	
6151.	National do-not-call registry.
6152.	Telemarketing Sales Rule; do-not-call registry fees.
6153.	Federal Communications Commission do-not-call regulations.
6154.	Reporting requirements.
6155.	Prohibition of expiration date.

CODIFICATION

This chapter is comprised principally of Pub. L. 108-10, Mar. 11, 2003, 117 Stat. 557, which was formerly set out as a note under section 6101 of this title.

§ 6151. National Do-Not-Call Registry

(a) Authority

The Federal Trade Commission is authorized under section 6102(a)(3)(A) of this title to imple-