

SOUTH CAROLINA AUTOMOBILE DEALERS ASSOCIATION

REGULATORY REMINDER

"DO-NOT -CALL"

Under the Federal "Do-Not-Call" Law you are prohibited from placing a telephone solicitation to anyone who: 1) registers on the National "Do-Not-Call" Registry; or 2) specifically requests that your Dealership not call them. The Federal Communications Commission (FCC) defines a telephone solicitation as a call that is made "for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services."

If you are making telephone solicitations, you must be registered with the Federal Trade Commission (FTC), you must download the list of numbers in the appropriate area codes from the "Do-Not-Call" Registry on a monthly basis, and you must not call any number on the list unless the number belongs to an exempted person. The law contains a private cause of action that permits consumers to file in state court and recover up to \$500 for each violation and treble damages for willful or knowing violations.

Exempted from the "Do-Not-Call" prohibitions are persons with whom:

- 1) You have received express written permission to call, or
- 2) You have an established business relationship (i.e., the person has purchased, leased, rented or entered into a transaction with your Dealership within the last 18 months immediately preceding the telephone solicitation or the person has inquired about or applied for a product or service offered by your Dealership within the 3 months immediately preceding the call), or
- 3) You have a personal relationship with the person.

Regardless of these exemptions, if a person specifically requests that your Dealership not call that person, then your Dealership is prohibited from calling that person. It is for this purpose that you are required to maintain a Dealership specific "Do-Not-Call" List to keep up with those customers that are not on the Federal "Do-Not-Call" Registry but don't want to be called by your Dealership. This would also be the place to maintain any persons' names and numbers that are on the Federal "Do-Not-Call" list but have given your Dealership specific permission to call them. Finally, you must limit telephone solicitations to between the hours of 8 a.m. - 9 p.m. and you must transmit (and are prohibited from blocking) your Caller 1D information.

You may register with the FTC and obtain the Federal Registry by going to www.ftc.gov/donotcall and clicking on "telemarketers" or you can go to www.telemarketing.donotcall.gov.

DO NOT FAX - Dealers must get written permission to send unsolicited commercial faxes unless an "established business relationship" exists. For faxing purposes, an established business relationship is created when someone makes an inquiry, application or purchase of products or services offered by your Dealership. The business relationship would end at the request of the fax recipient. Fax ads sent to people with an established business relationship must contain a clear notice on the front page of the ad stating that the recipient may request the sender not Fax future ads. The notice must contain the telephone and fax number of the Dealership and include a cost free (i.e, 800 number) way for the recipient to request for the ending of the faxes.

We have included a few "Q & A's" that might be helpful to you. By the way, there are no prohibitions or fines for calling America's #1 Dealers' Association to obtain prompt, friendly and reliable service. So if you have any questions on this or any other topic, please call - or fax.

Patrick E. Watson Executive Vice President

Q. We call customers for the purpose of surveying them about our sales and/or service procedures. Can we continue to do this?

A. As long as you don't attempt to sell the person something or set up a service appointment during the survey, the call should not be considered a "telephone solicitation" and would not be covered under the law.

If you are calling the customer within 18 months of the purchase or last servicing of the vehicle by your Dealership, the call would be exempt under the "business relationship" exemption.

However, if the customer has informed someone in your Dealership that they do not want to be called, period, then their name should be entered in the Dealership's Specific Do Not Call List and they should not be called.

Q, We have a person that makes cold calls to non-customers to invite them to come into our Dealership to look at new vehicles or to get their vehicles serviced. Would these calls be considered as solicitations? If yes, how should we set them up to make them legal?

A. Yes, these calls would seem to be solicitations. If you are going to make these telemarketing or telephone solicitations you must first register with the FTC and obtain a list of "Do-Not-Call" numbers for the area codes that you will be calling. If a number that you want to call is on the Federal "Do Not-Call" or your Dealership specific list you are prohibited from making such call.

If the number is not on the Federal list or on your Dealership specific "Do Not-Call" list, then you can make the call. Provided it is made between the hours of 8 a.m. & 9 p.m., and provided you give your name, your business name and a telephone number or address where you can be contacted.

Q. A customer leased a vehicle from our Dealership for 24 months and we sold the

lease to our manufacturer's finance division. After 22 months we wanted to call the customer and talk to him/her about purchasing the vehicle or leasing another vehicle. We checked the Federal "Do-Not-Call" Registry and the customer is registered on the list. Can we call the customer under the "business relationship" exemption?

A. No! No! The lease is between the customer and the finance company and you are no longer a part of the deal because more than 18 months has expired since the customer has done business with you. You are prohibited from calling.

Q. Stay with the same example above. This customer brought his car in for service and maintenance after the 12th month of the lease. Does that make any difference?

A. Yes. The 18 month "business relationship" exemption would start over with the last service transaction and you would not be prohibited from calling the customer. (Unless of course he has requested to be put on your Dealership Specific Do-Not-Call list.)

Q. Stay with the same lease situation one more time. Let's pretend that the customer never brought the car in for service after leasing it. However, after the 21st month of the lease the customer calls and wants to know how much it would cost to purchase the vehicle at the end of the lease. Two months later we want to call the customer but his/her name is still on the Federal "Do-Not-Call" list. Can we make the call?

A. Yes. The customer created a 3-month "inquiry" exemption when the customer called and inquired about possibly purchasing the vehicle.

Q. One more time with the same lease situation. When the customer leased the car from us, he told the F&I Manager that he did not want to be called by the Dealership at anytime. Can we use either the 18-month "business relationship" exemption or the "3-month" inquiry exemption to call this customer?

A. No you may not. Once he told you not to call him, his name and number should have been entered into your Dealership "Do-Not-Call" list and he should not be called.

Q. The guy who leased the vehicle above, what did he end up doing at the conclusion of his lease?

A. Funny that you asked. The guy placed his name on the Federal "Do-Not Call" list right after he leased the vehicle for the 24-month deal. Between the 20th and 24th months of the lease the Lease Manager called the customer on three different occasions and tried to lease him another vehicle. The customer was irate over being called, took the Dealer to state court, received treble damages of \$4500 and used the proceeds as the down payment on the new car he purchased from another Dealer down the street.