

# S.412 (Thomas)/A.6680 (Paulin)

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<b>BILL</b> S.412 (Thomas)/A.6680 (Paulin)
<b>SUBJECT</b> Addressing Unintended Consequences on Marketing Efforts
<b>DATE</b> May 25, 2023
<b>SUPPORT</b>

The COVID pandemic resulted in widespread negative impacts on the state's employers and jobs. This legislation addresses one entirely unintended consequence of the state's emergency response measures – the unintended shutdown of business marketing efforts.

The Business Council supports this legislation that addresses these unintended consequences while assuring the integrity of the state's telecommunications systems during emergencies.

Many businesses were caught unaware when then Governor Cuomo's initial COVID emergency declaration on March 7, 2020 (Executive Order 202) triggered General Business Law provisions (GBL §399-z(5-a)) which provides that "It shall be unlawful for any telemarketer doing business in this state to knowingly make an unsolicited telemarketing sales call to any person in a county, city, town or village under a declared state of emergency or disaster emergency as described in twenty-four or twenty-eight of the executive law." When this provision was adopted in 2019 (Chapter 680), its intent was to assure that New Yorkers had open lines of communications during natural disasters that impair telecommunication systems.

Clearly, the COVID epidemic had no impact on telecommunications, and The Business Council and others argued for subsequent extensions of the emergency declaration to include an exemption from the GLB moratorium.

Instead, these restrictions were extended with each extension of the original EO 202 emergency declaration.

To compound our concerns, even after the initial COVID emergency expired in June 2021, this prohibition was re-instated with the issuance of EO 211 on July 7, 2021 declaring a state-wide disaster emergency due to escalating gun violations, and with other subsequent emergency declarations.

These restrictions on sales activities unnecessarily impacted a wide range of New York employers and jobs, from real estate, to financial services, to telecommunications, to retail stores and others.

This legislation proposes a workable, common-sense fix. It provides that the telemarketing prohibition would only apply when an emergency declaration includes a finding that unsolicited telemarketing sales calls would impair actions taken to limit, control, or mitigate the emergency, and the restriction would only apply for up to two weeks, subject to extension.

New York employers and employees faced unprecedented shutdowns during the COVID pandemic, with extraordinary measures taken to protect against further spread of the COVID virus. Unfortunately, this telemarketing ban was never an intentional part of the state's emergency response, and its unintended application added to the state's economic downturn.

To avoid future unintended impacts, The Business Council supports approval of S.S.412 (Thomas)/A.6680 (Paulin).

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