



STATE OF INDIANA
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GREG ZOELLER
INDIANA ATTORNEY GENERAL

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Indiana Republican Party
101 W. Ohio St., Ste. 2200
Indianapolis, IN 46204

Joe Hauptmann, Chairman
Indiana Libertarian Party
1111 E. 54th St., Ste. 158
Indianapolis, IN 46220

John Zody, Chairman
Indiana Democratic Party
115 W. Washington St., Ste. 1165
Indianapolis, IN 46204

Dear Chairmen,

The 2016 elections are fast approaching. As has been done in the past, this letter is to alert you of Indiana's laws regarding Auto Dialing. Across the country, campaign committees of the political parties, candidates, and independent groups regularly look to technology to assist in reaching large numbers of voters. Recognizing that some candidates may be utilizing consultants that aren't familiar with Indiana's automated dialing statute, this correspondence is designed to remind your organization of this state-level statute that the Attorney General enforces.

Although automated calls are legal in some other states, Indiana through its Legislature has chosen to adopt one of the tightest telephone privacy laws possible. Nearly 2.5 million Hoosiers are on the popular Do Not Call list, indicating that they do not wish to be contacted by telephone solicitors for any reason. Hoosiers are also protected by Indiana's Auto Dialer statute which offers another layer of protection from prerecorded messages being blasted out at a rate of tens of thousands per hour to households.

Indiana's auto dialer law restricts the use of technology that automatically dials residential phone numbers and plays prerecorded messages, more commonly known as robo-calls. On the books since 1988, Indiana Code § 24-5-14-5(b) provides in part that: "A caller may not use or connect to a telephone line an automatic dialing-announcement device

unless.....the subscriber has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message..."

If campaigns want to play a prerecorded message, a live operator must first have initiated the call and received the recipient's permission, either by a prerecorded request to leave a message or the recipient must have previously opted into receiving such calls. Recipients could make it clear in their voicemail prompt that they only wish to receive a name and number of the person calling. In those instances the required permission inviting a message is not present. However, when a voicemail prompt invites a message to be left it provides permission for the human operator to play a prerecorded message.

The penalty for violating the Indiana Auto Dialer law is up to \$5,000 per violation. My office enforces the state's telephone privacy laws and investigates complaints about robo-calls. As in previous instances, when violations of the law have been made, my office will vigorously pursue lawsuits or other enforcement actions against those organizations that violate the statute, bringing them before court to face public scrutiny.

Some have held a misconception that the Auto Dialer law only prohibits robo-calls involving commercial calls. This argument was rejected by the Indiana Supreme Court in *State v. American Family Voices*, 898 N.E.2d 293 (Ind. 2008).

My office is prepared to take complaints from Hoosier citizens should they be contacted through the use of an autodialer mechanism that delivers a prerecorded message without their consent.

Indiana citizens are very much in tune with the state's telephone privacy laws, and reach out regularly to register complaints when they receive unwanted calls. In fact, my office receives more complaints about unwanted calls than all other violations combined. Our political parties and candidates have in the past demonstrated their respect for Hoosiers' privacy by declining to utilize robo-calls. I encourage this same respect be given in this highly charged environment leading into the primary election season in Indiana.

I send you this reminder so that your organization does not inadvertently commit a violation by programming automated calls that might be legal in other states but are restricted in Indiana.

Sincerely,



Gregory F. Zoeller
Indiana Attorney General

cc: Democratic National Committee
Republican National Committee