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Does your state have its own version of the TCPA?

Yes. New York General Business Law (GBL) section 399-z is New York's mini-TCPA addressing telemarketing practices. GBL section 399-p regulates the use of automatic dialing/announcing devices and making consumer telephone calls.

If so, please explain the distinction between the state's iteration of the TCPA.

- GBL section 399-z does not provide a private right of action for damages. GBL section 399-p(9) permits a consumer to recover the greater of his actual damages or fifty dollars, subject to trebling, up to one thousand dollars, and reasonable attorneys' fees.
- GBL section 399-z(2) requires that a telemarketer provide statutorily-required information at the beginning of each call, and that the telemarketer's name and person for whom the solicitation is being made, the option to be added automatically to the seller's entity specific do-not-call list, first, before other items. GBL § 399-z(2)(a)-(b).
- The state's power to enforce GBL section 399-z is substantial. Requests for document production by the state must be answered in 30 days. GBL § 399-z(13). Telemarketers and sellers must keep records of telemarketing activities for a minimum of 24 months, GBL § 399-z(11), not the five years required by 16 C.F.R. § 301.5(a). A violation of any part of the statute may result in a fine not to exceed \$20,000 for each violation. GBL § 399-z(14a). The implementing regulations are set out in 19 NYCRR §§ 220.1 – 220.5.

Please address state specific consumer protection statutes that are often paired with TCPA or its state iterations and the additional element and penalties.

Claims under the TCPA and the GBL are often paired with common law claims for harassment, invasion of privacy, and nuisance, but they are not often paired with claims under other consumer protection statutes.

What are the current best practices to comply with the State's iteration of the TCPA?

Unsurprisingly, exacting compliance with the TCPA will go a long way to satisfactory compliance with GBL section 399-z and 399-p. For example, the permitted hours for calls, 8 a.m. to 9 p.m., are the same under both statutory and regulatory schemes, compare 47 CFR § 64.1200(c)(1) with GBL 399-z(2), and calls

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to numbers on the national “do not call” registry are banned. federal (both limiting calls to the period from 8 a.m. to 9 p.m.). 47 CFR § 64.1200(c)(1); GBL § 399-z(4), (5). Compliance under the TCPA will not, without more, comply with the GBL. The telemarketer calling from New York, or calling to New York, GBL § 399-z(1)(d), must also:

- State, at the beginning of the call:
 - the telemarketer’s name, or the person for whom the solicitation is being made, GBL § 399-z(2)(a); and
 - the option to be added automatically to the seller’s entity specific do-not-call list. GBL § 399-z(2)(b).
- State whether the call is being recorded, GBL § 399-z(2)(c);
- State the purpose of the call and the identity of the goods or services for which a fee will be charged, GBL § 399-z(2)(d)-€;
- Prior to purchase, state the cost of the goods or services, with special provisions to be observed for “negative option” features, GBL § 399-z(2)(3);
- Not use a pre-recorded message unless the telemarketer or seller has obtained an express written agreement from the consumer, containing the customer’s telephone number and signature:
 - In clear and conspicuous terms stating that the purpose of the agreement is to authorize telemarketing calls;
 - Executing the written agreement was not a condition to the purchase of goods or services; and
 - Evidences the willingness of the customer to receive calls by or on behalf of a specific seller. GBL § 399-z(6).