

# HOUSE BILL REPORT

## HB 1252

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**As Reported by House Committee On:**  
Technology, Energy & Communications

**Title:** An act relating to establishing restrictions on prerecorded telephone calls.

**Brief Description:** Establishing restrictions on prerecorded telephone calls.

**Sponsors:** Representatives Hunter, Buri, McIntire, Springer, Rodne, Kagi, Fromhold, Kirby, Hinkle, Jarrett, McCoy, B. Sullivan, Appleton, Takko, Newhouse, Miloscia, Blake, Kenney, Dickerson, Haigh, P. Sullivan, Darneille, Moeller, Schual-Berke, Eddy, Santos and Rolfes.

**Brief History:**

**Committee Activity:**

Technology, Energy & Communications: 1/31/07, 2/13/07 [DPS].

### Brief Summary of Substitute Bill

- Prohibits using an automatic dialing and announcing device to send certain types of prerecorded voice messages, unless the recipient has given consent.

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## HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Morris, Chair; McCoy, Vice Chair; Crouse, Ranking Minority Member; Eddy, Ericksen, Hankins, Hurst and Takko.

**Minority Report:** Do not pass. Signed by 3 members: Representatives McCune, Assistant Ranking Minority Member; Hudgins and VanDeWege.

**Staff:** Kara Durbin (786-7133).

### **Background:**

An automatic dialing and announcing device (ADAD) is a computerized machine that can automatically dial telephone numbers and play a prerecorded message.

State Law

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Unsolicited calls placed through an ADAD in order to encourage a person to buy property, goods, or services are prohibited. The penalty is \$500. A violation of this law is also a violation of the Consumer Protection Act, which provides for fines, treble damages, court costs, and attorneys' fees.

#### Washington Utilities and Transportation Commission

The Washington Utilities and Transportation Commission (WUTC) regulates the use of ADADs for purposes other than commercial solicitation. The WUTC places the following restrictions on such calls:

- the recorded message must state who is calling, the telephone number of the caller, and the nature of the call;
- the call must be placed between 8 a.m. and 9 p.m.; and
- the call is disconnected within two seconds of when the recipient hangs up the phone.

Emergency messages delivered by government agencies are exempted. The WUTC can impose administrative penalties upon anyone in violation of this regulation, including a fine of up to \$1,000.

#### Federal Law

Federal law prohibits placing a call to a residential telephone number using a prerecorded voice message without the recipient's prior express consent. A recipient's prior express consent is presumed if there is an established business relationship between the caller and the recipient. Certain types of calls are exempt: (1) emergency calls; (2) non-commercial calls; and (3) calls made by, or on behalf of, tax-exempt or non-profit organizations. For those prerecorded messages that are allowed, federal law places restrictions on the time of day and the manner in which the message is delivered.

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#### **Summary of Substitute Bill:**

A caller may not use an automatic dialing and announcing device to place a call to a subscriber who resides in Washington and whose telephone number is assigned to the State of Washington unless:

- the person receiving the call has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message; or
- the message is immediately preceded by a live operator who discloses at the beginning of the call who is paying for the message and obtains consent from the subscriber before the message is delivered.

Certain prerecorded messages are allowed:

- messages from school districts to students, parents, or employees;
- messages to subscribers with whom the caller has a current business or personal relationship;
- messages advising employees of work schedules;

- messages from federal, state, or local government entities; or
- messages concerning an emergency.

A violation of this bill is a violation of the Consumer Protection Act. An aggrieved person can seek damages of \$500 per violation.

A "caller" is defined as an individual, corporation, limited liability company, partnership, unincorporated association, or the entity that attempts to contact, or contacts a subscriber in the state on the subscriber's telecommunications device, regardless of whether the call is made through a wireline, wireless, voice-over Internet Protocol, or other telecommunications service. A caller may also include the business entity or affiliated organization that contracted for the call, regardless of whether the call is placed from inside or outside the state.

A "subscriber" is defined as a person who has subscribed to receive telecommunications service in Washington from a provider of telecommunications service, including, but not limited to, wireline, wireless, and voice-over Internet Protocol services, or a person who resides with the subscriber.

**Substitute Bill Compared to Original Bill:**

The substitute bill broadens the definition of the term "caller" to include the business entity or organization that contracted for a call, regardless of whether the call was placed from inside or outside the state. The definition of "subscriber" is broadened to include a person who subscribes to wireless or voice-over Internet Protocol service. The substitute bill specifies that a subscriber is a person who has subscribed for telecommunication service in Washington. In addition, the substitute bill exempts messages from federal, state, or local government entities and messages concerning emergencies from the restrictions in the bill.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) I received a flurry of telephone calls last November. One of my constituents received dozens of prerecorded telephone calls. An editorial in the Seattle Times referred to these calls as "maddening." There will be even more calls like these in 2008. Another state has found a way to fairly limit telephone calls from political organizations in a way that is content neutral. Content-neutral restrictions are permissible. This bill requires a lengthy verbal message at the beginning of the call and an opportunity to consent. You may hear some concerns about this bill, but I would argue this is an appropriate approach. I do not want to relax the prohibition on commercial solicitations that is in current law today. I support creating exemptions for school districts and emergency calls. Many people feel these

calls are an invasion of privacy. Having calls preceded by a live operator are more expensive, but less offensive to the average citizen.

(In support with technical amendment) We support this bill. We simply have a small, technical suggestion to add affiliates to the bill.

(Information only) The WUTC doesn't take a policy position on the bill. We haven't received a complaint about automated calls recently. We urge you not to repeal the WUTC's oversight over these calls. We monitor our local exchange carrier's volume of these type of calls. We have other rules regarding the use of these automatic dialing and announcing devices. The WUTC has administrative authority to assess a penalty under those rules.

(Opposed) None.

**Persons Testifying:** (In support) Representative Hunter, prime sponsor.

(In support with technical amendment) Mike Woodin, AT&T.

(Information only) Dave Danner, Washington Utilities and Transportation Commission.

**Persons Signed In To Testify But Not Testifying:** None.