

HOUSE BILL REPORT

HB 2611

As Reported by House Committee On:
Technology, Telecommunications & Energy

Title: An act relating to commercial telephone solicitation.

Brief Description: Creating a no call list.

Sponsors: Representatives Lysen, Casada, Romero, Kenney, Berkey, Sullivan, Wood, Linville, Hunt, Kagi, Dickerson, Darneille, McDermott, Haigh, O'Brien, Chase, Fromhold, Veloria, Cody, Lovick, Upthegrove, Orcutt, Kirby, McIntire, Miloscia, Nixon, Campbell, Santos, Schual-Berke and Conway.

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 1/30/02, 2/6/02 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Licensing to establish a do not call– list for those who do not wish to receive commercial telephone solicitations.
- Creates the commercial telephone solicitation account to receive fees paid by telephone solicitors and penalties recovered for violations as the revenue source to support the program.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Morris, Chair; Ruderman, Vice Chair; Anderson, Berkey, Bush, Casada, DeBolt, Esser, Hunt, Linville, Lysen, Nixon, Pflug, Reardon, Romero, Sullivan and Wood.

Minority Report: Without recommendation. Signed by 2 members: Representatives Crouse, Ranking Minority Member; and Delvin.

Staff: Pam Madson (786-7166); Ken Conte (786-7102).

Background:

Commercial telephone solicitors must register with the Department of Licensing and must comply with the state Commercial Telephone Solicitation Act.

Upon receiving an unsolicited commercial sales call, the person receiving the call may ask to be removed from the calling list used by the telephone solicitor and the solicitor may not make any further commercial solicitation calls to the person at that number for one year. The commercial telephone solicitor may not sell or give the number to another company or organization. Civil and criminal penalties may be imposed for violation of these provisions.

The Federal Communications Commission (FCC) rules require that telephone solicitors calling residential numbers keep a record of individuals who do not wish to receive any further calls. Under the Telephone Consumer Protection Act, a solicitor must honor its do not call– list for 10 years.

There is no federally required national do not call– list for telephone solicitations. However, the Federal Trade Commission (FTC) has recently proposed the creation of a national do not call– registry as part of a broader proposal to change telemarketing sales rules.

Individuals may voluntarily register with the Telephone Preference Service of the Direct Marketing Association (DMA). The Service commercially publishes lists of consumers who do not wish to receive solicitation calls. The list may be used by telephone solicitors who wish to remove these numbers from their calling lists to avoid potential violations and resulting penalties.

Summary of Substitute Bill:

Do Not Call List: The Department of Licensing (DOL) is required to establish and maintain a "do not call" list. The list is to be updated and distributed to commercial telephone solicitors on a quarterly basis. No commercial telephone solicitor may make a solicitation call to any number more than 60 days after the number appears on the list. If a telephone solicitor has procedures in place to implement the do not call requirements and a call is made to a person on the list which represents an isolated incident, the call is not considered a violation of the no-call provision.

The Washington Utilities and Transportation Commission must ensure by rule that telephone companies inform their residential customers of the "do not call" list provisions. The DOL may contract with a private vendor to establish and maintain the "do not call" list.

Revenue to Operate and Maintain the List: The DOL must establish an annual fee charged to registered commercial telephone solicitors. This fee is to be set in an amount

which will cover the costs of administering and enforcing the do not call– list provisions of this bill and of distributing the list quarterly. As moneys from civil penalties or attorneys fees are deposited in the account, these funds are to be used to support DOL’s activities relating to the do not call– lists and the amount of the fees are to be adjusted accordingly.

Dedicated Fund: All moneys collected by the DOL for fees and penalties are deposited into a dedicated account known as the commercial telephone solicitation account. Moneys in this account may be used only to administer the program. Expenditures need not be appropriated.

Enforcement: Provision of the law are enforced by the Attorney General. A violation of this law is also a violation of the consumer protection act. A consumer can bring an action against an individual telephone solicitor and may recover \$1,000 per violation.

Rules to implement: The DOL may adopt rules to implement this bill.

Substitute Bill Compared to Original Bill:

The substitute bill places the responsibility to establish and maintain the do not call– list with the Department of Licensing rather than the Attorney General. The discretionary fee of \$3, charged to a person wishing to have their name placed on the list, is deleted. The DOL must establish an annual fee charged to registered commercial telephone solicitors. This fee is to be set in an amount which will cover the costs of administering and enforcing the do not call– list provisions of this bill and of distributing the list quarterly.

Appropriation: None.

Fiscal Note: Requested on January 25, 2002.

Effective Date of Substitute Bill: January 1, 2003.

Testimony For: (Original bill) This issue is personally important to me. I’m sick of telemarketers hounding me and my family and friends at night. A no call list is important to many senior citizens who are harassed and encouraged to purchase things they don’t need. About 20 - 25 states have no call lists and they are very popular. When a similar law was passed in Texas they had nearly 200,000 people sign up in the first three weeks. In Missouri, 60 percent of the population is signed up on a no-call list. The FTC is proposing rules, but the government works slow and it may take one and a half to two years before they implement it. There are strong enforcement provisions in this proposal that provide penalties for not adhering to the no call list. The fees are simply to make the bill no-cost legislation, almost every other state has them, and they

are minimal to consumer and moderate to telemarketers. This bill is a step in the right direction.

The Direct Marketing Associations is not effective at protecting consumers. I would like the bill to include solicitors for charitable organizations. There is a lot of consumer anger about telemarketers. People may sign up for services through telemarketers, but they aren't always told about what they are buying and they end up at Consumer Protection. I choose to answer the phone that I pay for, and unwanted phone calls have become more than a nuisance, it has become a mental and emotional stress at times. The \$3 fee is nominal and well worth it. The industry regulating itself does not work all the time. It never seems to fail that I'm waiting for my doctor to call and I miss him because I'm on the phone with a telemarketer.

The Department of Licensing may be a more appropriate agency to establish the list and set fees than the Attorney General. The consumer didn't ask to receive these calls and they shouldn't have to pay money to avoid them.

I'm concerned that when someone checks that they can be contacted to receive promotional material on a contest, and they are on the no call list, that the organization sending the promotional material will be fined for noncompliance. I'm glad the committee is considering contracting out to another vender.

Testimony Against: None.

Testified: (In support) Representative Lysen, prime sponsor; Beverly Postman; Gene Forrester, Senior Citizens Lobby; Barbara Bull; Tom Vogel; and Skip Dreps, Northwest Chapter of Paralyzed Veterans of America.

(Pro with concerns) Dave Horn, Office of the Attorney General.

(Concerns) Steve Gano, Trend West.