

SENATE BILL REPORT

SB 5340

As of January 29, 2001

Title: An act relating to telephone solicitation definitions.

Brief Description: Modifying telephone solicitation definitions.

Sponsors: Senators Finkbeiner, Horn, McCaslin, Morton, Winsley, Hale and McDonald.

Brief History:

Committee Activity: Economic Development & Telecommunications: 1/30/01.

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TELECOMMUNICATIONS

Staff: William Bridges (786-7424)

Background: In order to protect residential privacy, the Legislature passed a law regulating telephone solicitations in 1986. This law was codified in Chapter 80.36 RCW. The 1986 law defines telephone solicitation— as a call to a residential customer soliciting a donation or encouraging the purchase of property, goods, or services.

Under the 1986 telephone solicitation law, telephone solicitors must identify themselves and the purpose of the call within the first 30 seconds of the call. Customers have the right to have their names and phone numbers removed from the solicitor's list. If they exercise this right, the solicitor cannot call back for one year, and the solicitor cannot give the name and number to another company.

The 1986 law does not apply to the following calls:

- Calls made in response to a request by the customer, including calls concerning an item that has been purchased during the last 12 months;
- Calls made by a not-for-profit organization to its own list of bona fide or active members of the organization;
- Calls made by political parties and calls limited to polling or soliciting the expression of ideas, opinions, or votes; and
- Calls that are business-to-business contacts.

Each violation of the telephone solicitation law is punishable by a \$1,000 fine, enforceable by the Attorney General. In addition, an individual suffering repeated violations of this law may personally sue for damages of at least \$100 for each violation, court costs, and reasonable attorneys' fees.

In 1989, the Legislature passed a law regulating commercial telephone solicitations— that was intended to protect the public from the practices of fraudulent commercial telephone solicitations. This law was codified in Chapter 19.158 RCW. The 1989 law defines

commercial telephone solicitation– as a call to induce a person to purchase or invest in property, goods, or services.

Under 1989 commercial telephone solicitations law, solicitors must identify themselves and the purpose of the call within the first minute of the call. Solicitors must stop the call in 10 seconds if the customer wants to end the conversation. Customers have the right to have their names and phone numbers removed from the solicitor’s list. If they exercise this right, the solicitor cannot call back for one year, and the solicitor cannot give the name and number to another company. In addition, the commercial telephone solicitation law also has provisions concerning unfair and deceptive acts, credit card purchases, and rules for the cancellation of contracts.

The 1989 commercial telephone solicitation law does not apply to the following calls:

- Calls that are isolated transactions;
- Calls from a person whose telephone sales from the prior year were less than 60 percent of the person’s total sales;
- Calls to a former customer concerning a previously purchased item;
- Calls from a person who does not intend to make an immediate sale but plans to arrange a later face-to-face meeting.
- Calls soliciting the sale of newspapers and magazines;
- Calls that are business to business related;
- Calls soliciting the sale of delivery food; and
- Calls from 17 types of businesses that are already regulated by state or federal law, such as real estate and insurance brokers.

A violation of the law is a violation of the Consumer Protection Act, which provides for fines, treble damages, court costs, and attorneys’ fees. In addition, violations are also punishable by civil penalties and criminal sanctions.

Summary of Bill: The definitions in the 1989 commercial telephone solicitation law, including the 24 exceptions for the definition of a commercial telephone solicitor– are repealed.

A new definition of commercial telephone solicitor– is created that has four exceptions: (1) calls made in response to a request by the customer, including calls concerning an item that has been purchased during the last 12 months; (2) calls made by a not-for-profit organization to its own list of bona fide or active members of the organization; (3) calls limited to polling or soliciting the expression of ideas, opinions, or votes; and (4) calls that are business-to-business contacts.

Appropriation: None.

Fiscal Note: Requested on January 29, 2001.

Effective Date: Ninety days after adjournment of session in which bill is passed.