
SUBSTITUTE HOUSE BILL 2611

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Lysen, Casada, Romero, Kenney, Berkey, Sullivan, Wood, Linville, Hunt, Kagi, Dickerson, Darneille, McDermott, Haigh, O'Brien, Chase, Fromhold, Voloria, Cody, Lovick, Upthegrove, Orcutt, Kirby, McIntire, Miloscia, Nixon, Campbell, Santos, Schual-Berke and Conway)

Read first time 02/06/2002. Referred to Committee on .

1 AN ACT Relating to commercial telephone solicitation; amending RCW
2 19.158.110; adding new sections to chapter 19.158 RCW; prescribing
3 penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.158.110 and 1989 c 20 s 11 are each amended to read
6 as follows:

7 (1) Within the first minute of the telephone call, a commercial
8 telephone solicitor or salesperson shall:

9 (a) Identify himself or herself, the company on whose behalf the
10 solicitation is being made, the property, goods, or services being
11 sold; and

12 (b) Terminate the telephone call within ten seconds if the
13 purchaser indicates he or she does not wish to continue the
14 conversation.

15 (2) If at any time during the telephone contact, the purchaser
16 states or indicates that he or she does not wish to be called again by
17 the commercial telephone solicitor or wants to have his or her name and
18 individual telephone number removed from the telephone lists used by
19 the commercial telephone solicitor:

1 (a) The commercial telephone solicitor shall not make any
2 additional commercial telephone solicitation of the called party at
3 that telephone number within a period of at least one year; and

4 (b) The commercial telephone solicitor shall not sell or give the
5 called party's name and telephone number to another commercial
6 telephone solicitor: PROVIDED, That the commercial telephone
7 solicitor may return the list, including the called party's name and
8 telephone number, to the company or organization from which it received
9 the list.

10 (3) The utilities and transportation commission shall by rule
11 ensure that telecommunications companies inform their residential
12 customers of the provisions of this section and section 2 of this act.
13 The notification may be made by:

14 (a) Annual inserts in the billing statements mailed to residential
15 customers; or

16 (b) Conspicuous publication of the notice in the consumer
17 information pages of local telephone directories.

18 (4) If a sale or an agreement to purchase is completed, the
19 commercial telephone solicitor must inform the purchaser of his or her
20 cancellation rights as enunciated in this chapter, state the
21 registration number issued by the department of licensing, and give the
22 street address of the seller.

23 (5) If, at any time prior to sale or agreement to purchase, the
24 commercial telephone solicitor's registration number is requested by
25 the purchaser, it must be provided.

26 (6) All oral disclosures required by this section shall be made in
27 a clear and intelligible manner.

28 NEW SECTION. Sec. 2. A new section is added to chapter 19.158 RCW
29 to read as follows:

30 (1)(a) The department of licensing shall provide for the
31 establishment and operation of a list of telephone numbers of persons
32 who object to receiving commercial telephone solicitations. The list
33 shall be called the do not call list. The department shall update the
34 list quarterly, and shall provide the list, in written or electronic
35 form, to commercial telephone solicitors that are registered with the
36 department under RCW 19.158.050 and have paid all applicable fees. The
37 department shall establish a fee sufficient to support the costs of
38 administering and enforcing this section and providing the list

1 quarterly to each commercial telephone solicitor. To the extent that
2 moneys from civil penalties or attorney fee awards are deposited in the
3 commercial telephone solicitation account, the department shall use
4 these revenues to support its responsibilities under this section, and
5 it shall adjust the fee accordingly. Each commercial telephone
6 solicitor registered under this chapter must pay the fee annually. The
7 department of licensing may contract with a private vendor to establish
8 and maintain the do not call list.

9 (b) Persons wishing to have their phone numbers placed on the list
10 must notify the department of licensing. A listing shall be effective
11 for two years, after which the person may renew the listing for
12 successive two-year periods by notifying the department of licensing.
13 The department of licensing shall determine the notification
14 requirements.

15 (c) All fees collected by the department of licensing under this
16 section, and civil penalties and attorneys' fees collected by the
17 attorney general in enforcing this section, shall be deposited in the
18 commercial telephone solicitation account created in section 3 of this
19 act, and used solely for the administration and enforcement of this
20 section.

21 (2) No commercial telephone solicitor may make a commercial
22 telephone solicitation to any telephone number more than sixty days
23 after the number appears on the current do not call list.

24 (3) A telephone solicitation made to a number on the do not call
25 list is not a violation of this section if the telephone solicitation
26 is an isolated occurrence made by a person who has in place adequate
27 procedures to comply with this section.

28 (4) The legislature finds that the practices covered by this
29 section are matters vitally affecting the public interest for the
30 purpose of applying the consumer protection act, chapter 19.86 RCW. A
31 violation of this section is not reasonable in relation to the
32 development and preservation of business and is an unfair or deceptive
33 act in trade or commerce and an unfair method of competition for the
34 purpose of applying the consumer protection act, chapter 19.86 RCW. In
35 addition to any other penalties or remedies available under this
36 chapter or chapter 19.86 RCW, a person injured by a violation of
37 subsection (2) of this section may bring an action for recovery of
38 liquidated damages in the amount of one thousand dollars per violation,
39 plus court costs and attorneys' fees.

1 (5) The director of the department of licensing may make rules,
2 create forms, and issue orders as necessary to carry out the provisions
3 of this section.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.158 RCW
5 to read as follows:

6 The commercial telephone solicitation account is created in the
7 custody of the state treasurer. All moneys received by the department
8 under section 2 of this act and civil penalties and attorneys' fees
9 collected by the attorney general in enforcing section 2 of this act
10 shall be deposited in the commercial telephone solicitation account and
11 used solely for the administration and enforcement of section 2 of this
12 act. Only the director of the department of licensing or the
13 director's designee may authorize expenditures from the account. The
14 account is subject to allotment procedures under chapter 43.88 RCW, but
15 no appropriation is required for expenditures.

16 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2003.

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