
SENATE BILL 5132

State of Washington

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By Senators Kastama, B. Sheldon, Rasmussen, Franklin, Snyder, Prentice, Costa, Fraser, McAuliffe, Kohl-Welles, Fairley, Jacobsen, Kline, Winsley and Eide

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1 AN ACT Relating to the establishment and operation of a do not
2 call list for commercial telephone solicitation; amending RCW
3 19.158.110 and 43.79A.040; adding new sections to chapter 19.158
4 RCW; and prescribing penalties.

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

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

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

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

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

16 (2) If at any time during the telephone contact, the purchaser
17 states or indicates that he or she does not wish to be called

1 again by the commercial telephone solicitor or wants to have his
2 or her name and individual telephone number removed from the
3 telephone lists used by the commercial telephone solicitor:

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

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

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

17 (a) Annual inserts in the billing statements mailed to
18 residential customers; or

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

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

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

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

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.158
32 RCW to read as follows:

33 (1)(a) The department of licensing shall provide for the
34 establishment and operation of a list of telephone numbers of
35 persons who object to receiving commercial telephone
36 solicitations. The list shall be called the do not call list. The
37 department shall update the list quarterly, and shall provide the

1 list, in written or electronic form, to commercial telephone
2 solicitors for a reasonable fee. The department shall determine the
3 fee amount.

4 (b) Persons wishing to have their phone numbers placed on the
5 list must notify the department of licensing. A listing shall be
6 effective for one year, after which the person may renew the
7 listing for successive one-year periods by notifying the
8 department of licensing. The department of licensing shall
9 determine the notification requirements.

10 (c) All fees collected by the department of licensing under
11 this section, or civil penalties collected by the attorney general
12 in enforcing this section, shall be deposited in the commercial
13 telephone solicitation list account created in section 3 of this
14 act, and used solely for the administration of this section.

15 (2) No commercial telephone solicitor may make a commercial
16 telephone solicitation to any telephone number more than thirty
17 days after the number appears on the current do not call list.

18 (3) The legislature finds that the practices covered by this
19 section are matters vitally affecting the public interest for the
20 purpose of applying the consumer protection act, chapter 19.86
21 RCW. A violation of this section is not reasonable in relation to
22 the development and preservation of business and is an unfair or
23 deceptive act in trade or commerce and an unfair method of
24 competition for the purpose of applying the consumer protection
25 act, chapter 19.86 RCW. In addition to any other penalties or
26 remedies available under this chapter or chapter 19.86 RCW, a
27 person injured by a violation of subsection (2) of this section
28 may bring an action for recovery of liquidated damages in the
29 amount of one thousand dollars per violation, plus court costs and
30 attorneys' fees.

31 (4) The director of the department of licensing may make rules,
32 create forms, and issue orders as necessary to carry out the
33 provisions of this section.

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

36 The commercial telephone solicitation list account is created
37 in the custody of the state treasury. All moneys received by the

1 department under section 2 of this act or civil penalties
2 collected by the attorney general in enforcing section 2 of this
3 act shall be deposited in the commercial telephone solicitation
4 list account and used solely for the administration of section 2
5 of this act. Only the director of the department of licensing or
6 the director's designee may authorize expenditures from the
7 account. The account is subject to allotment procedures under
8 chapter 43.88 RCW, but no appropriation is required for
9 expenditures.

10 **Sec. 4.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to read
11 as follows:

12 (1) Money in the treasurer's trust fund may be deposited,
13 invested, and reinvested by the state treasurer in accordance with
14 RCW 43.84.080 in the same manner and to the same extent as if the
15 money were in the state treasury.

16 (2) All income received from investment of the treasurer's
17 trust fund shall be set aside in an account in the treasury trust
18 fund to be known as the investment income account.

19 (3) The investment income account may be utilized for the
20 payment of purchased banking services on behalf of treasurer's
21 trust funds including, but not limited to, depository,
22 safekeeping, and disbursement functions for the state treasurer or
23 affected state agencies. The investment income account is subject
24 in all respects to chapter 43.88 RCW, but no appropriation is
25 required for payments to financial institutions. Payments shall
26 occur prior to distribution of earnings set forth in subsection
27 (4) of this section.

28 (4)(a) Monthly, the state treasurer shall distribute the
29 earnings credited to the investment income account to the state
30 general fund except under (b) and (c) of this subsection.

31 (b) The following accounts and funds shall receive their
32 proportionate share of earnings based upon each account's or
33 fund's average daily balance for the period: The Washington
34 advanced college tuition payment program account, the agricultural
35 local fund, the American Indian scholarship endowment fund, the
36 basic health plan self-insurance reserve account, the commercial
37 telephone solicitation list account, the Washington international

1 exchange scholarship endowment fund, the developmental
2 disabilities endowment trust fund, the energy account, the fair
3 fund, the game farm alternative account, the grain inspection
4 revolving fund, the juvenile accountability incentive account, the
5 rural rehabilitation account, the stadium and exhibition center
6 account, the youth athletic facility ((grant)) account, the self-
7 insurance revolving fund, the sulfur dioxide abatement account,
8 and the children's trust fund. However, the earnings to be
9 distributed shall first be reduced by the allocation to the state
10 treasurer's service fund pursuant to RCW 43.08.190.

11 (c) The following accounts and funds shall receive eighty
12 percent of their proportionate share of earnings based upon each
13 account's or fund's average daily balance for the period: The
14 advanced right of way revolving fund, the advanced environmental
15 mitigation revolving account, the federal narcotics asset
16 forfeitures account, the high occupancy vehicle account, the local
17 rail service assistance account, and the miscellaneous
18 transportation programs account.

19 (5) In conformance with Article II, section 37 of the state
20 Constitution, no trust accounts or funds shall be allocated
21 earnings without the specific affirmative directive of this
22 section.

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