

HOUSE BILL REPORT

HB 2672

As Reported By House Committee On:
Technology, Telecommunications & Energy
Appropriations

Title: An act relating to commercial telephone solicitation.

Brief Description: Creating a telephone solicitation no sales call list.

Sponsors: Representatives Radcliff, Keiser, Ruderman, O'Brien and Esser.

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 1/25/00, 2/4/00 [DPA];
Appropriations: 2/5/00, 2/7/00 [DPS(APP)].

Brief Summary of Substitute Bill

- Creates a no telephone sales call list.
- Washington Utilities and Transportation Commission may contract with a third party to maintain and update the list.
- Commercial solicitation calls made to persons on the list are violations of the Consumer Protection Act.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: Do pass as amended. Signed by 12 members: Representatives Crouse, Republican Co-Chair; Poulsen, Democratic Co-Chair; DeBolt, Republican Vice Chair; Ruderman, Democratic Vice Chair; Bush; Cooper; Delvin; Kastama; McDonald; Morris; Reardon and Thomas.

Staff: Julia Harmatz (786-7135).

Background:

Washington prohibits certain telemarketing acts. As per the statutes, it is unlawful for a commercial telephone solicitor to call a residence before 8:00 a.m. and no later than 9:00 p.m. The solicitor may not harass, intimidate, or torment any person in connection with the telephone call.

Duties and Prohibited Acts of Solicitors 19.158.110 RCW

When calling, commercial telephone solicitors are required to identify themselves; terminate the phone call within 10 seconds if the party called so desires; remove the party's name from the call list for one year if requested to do so, as well as not sell that name (if the name can be returned to the company that provided the list); inform the party of his or her cancellation rights if a purchase were made; and ensure that all oral disclosures are clear and intelligible.

Washington Utilities and Transportation Commission

The commission requires by rule that telecommunications companies inform residential customers of the duties of commercial telephone solicitors.

Registration Required

Telephone solicitors are required to register with the Department of Licensing and maintain a valid registration. Failure to register may result in a penalty of not more than \$5,000.

Consumer Protection Act

The attorney general may restrain prohibited acts under the scope of the Consumer Protection Act (19.86 RCW). In the discretion of the court, a prevailing party may recover the costs of the action, actual damages, attorneys' fees, and potentially treble damages not more than \$10,000.

Summary of Amended Bill:

The commission will establish and maintain, or may contract with a third party, to maintain a no sales call list. The list will be updated monthly, and the commission will ensure that consumers know that it may take up to 120 days to experience a reduction in commercial sales calls.

Residents may place their name on the list at no charge, and commercial telephone solicitors may have access to the list at no charge. The commission will determine the method of making the list available.

An unsolicited commercial telephone call made to a person on the no sales call list is a violation of the Consumer Protection Act.

Amended Bill Compared to Original Bill: The amended bill moves the authority to establish and maintain the no sales call list from the attorney general to the commission. The amendment also allows residents to register on the list at no charge, and for solicitors to receive the list at no charge. The commission will determine the method of distribution of the list. The no sales call list account created in the original bill is deleted.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: People don't want to be interrupted at home in the evenings. Nonprofits are exempted from this list. In favor of the list, but has an opt in been considered in lieu of an opt out.

Testimony Against: The Direct Marketing Association (DMA) provides a similar service. The list should be updated monthly, not every six months. It takes up to 120 days to have solicitor's list updated with removals. Reputable businesses adhere to the DMA list. The attorney general does not do this. Perhaps other agencies would be a better place for this.

Testified: (Support) Representative Radcliffe, Sponsor;

(Concerns) Rosemary Williamson, General Telephone; Joe Daniels, Direct Marketing Association; and Elaine Rose, Office of the Attorney General.

(Opposed with suggestions) Bruce Shaull, Sprint.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Appropriations be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Alexander; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Sump; Tokuda and Wensman.

Minority Report: Do not pass. Signed by 3 members: Representatives Benson; Boldt and Mulliken.

Staff: Ronda Larson (786-7117).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Technology, Telecommunications & Energy:
The bill is null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony for: None.

Testimony Against: There is a better way of attacking this problem than what this bill proposes. The current Telemarketing Act includes a whole host of exempted entities in the definition of commercial telephone solicitor. These entities would not be required to adhere to this no-call list. Furthermore, the Direct Marketing Association (DMA) maintains a no-call list currently, and the industry considers it to be the industry list. It has a million people on it, including about 115,000 in Washington State. The DMA's 4,800 members honor that list and will not call a name on the list, because if you call someone who does not want to be called, you obviously are not going to make a sale. Also, the fiscal note's cost estimate of \$700,000 on the bill is quite high, and this expenditure of public funds is a concern (original fiscal note).

Testified: Bruce Shaull, Sprint; and Joe Daniels, Direct Marketing Association.