

2 SSB 5341 - S AMD 157
3 By Senator Finkbeiner

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5 Strike everything after the enacting clause and insert the
6 following:

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

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

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

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

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

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

25 (b) The commercial telephone solicitor shall not sell or give the
26 called party's name and telephone number to another commercial
27 telephone solicitor: PROVIDED, That the commercial telephone
28 solicitor may return the list, including the called party's name and
29 telephone number, to the company or organization from which it received
30 the list.

31 (3) The utilities and transportation commission shall by rule
32 ensure that telecommunications companies inform their residential
33 customers of the provisions of this section and sections 3 and 4 of
34 this act. The notification may be made by:

35 (a) Annual inserts in the billing statements mailed to residential
36 customers; or

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

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

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

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

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

15 (1) A commercial telephone solicitor, when engaging in commercial
16 telephone solicitation, shall provide caller identification information
17 that is required by a caller identification service if such service is
18 available.

19 (2) A commercial telephone solicitor, when engaging in commercial
20 telephone solicitation, shall not circumvent or interfere with the
21 capability of a caller identification service to deliver the
22 solicitor's name, number, or location.

23 (3) In addition to any other penalties or remedies available under
24 this chapter or chapter 19.86 RCW, a person injured by a violation of
25 this section may bring an action for recovery of liquidated damages in
26 the amount of one thousand dollars per violation, plus court costs and
27 attorneys' fees.

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

30 (1) The definitions in this subsection apply throughout this
31 section unless the context clearly requires otherwise.

32 (a) "Prerecorded telephone message" means an unsolicited recorded
33 telephone message without an introduction by an unrecorded voice
34 informing the receiver of the: (i) Identity and telephone number of
35 the caller and (ii) option to immediately discontinue the call.

36 (b) "Prerecorded telephone message" does not include the following:
37 (i) A recorded message disseminated with the prior consent of the

1 receiver; (ii) a recorded message related to public health, safety, or
2 welfare, including, but not limited to, noncommercial recorded messages
3 disseminated by libraries, schools, and entities conducting
4 epidemiological studies; and (iii) a recorded message, that is not a
5 commercial telephone solicitation, disseminated to a person with whom
6 the caller has had a business relationship within the past twelve
7 months.

8 (2) No person initiating a telephone call may use a prerecorded
9 telephone message. This section applies to all prerecorded telephone
10 messages intended to be received by persons within the state.

11 (3) In addition to any other penalties or remedies available under
12 this chapter or chapter 19.86 RCW, a person injured by a violation of
13 this section may bring an action for recovery of liquidated damages in
14 the amount of one thousand dollars per violation, plus court costs and
15 attorneys' fees.

16 (4) Nothing in this section shall be construed to restrict the
17 application of any laws applying to telephone solicitations.

18 NEW SECTION. Sec. 4. A new section is added to chapter 19.158 RCW
19 to read as follows:

20 (1)(a) The department of licensing shall provide for the
21 establishment and operation of a list of telephone numbers of persons
22 who object to receiving commercial telephone solicitations. The list
23 shall be called the do not call list. The department shall update the
24 list quarterly, and shall provide the list, in written or electronic
25 form, to commercial telephone solicitors.

26 (b) No fee may be charged to a person for placing a telephone
27 number on the list. No fee may be charged to a person to inspect or
28 obtain the list.

29 (c) The department of licensing shall establish an annual fee,
30 charged under this section, to maintain the do not call list in this
31 subsection (1). The fee shall be sufficient to support the costs of
32 administering and enforcing this section. Commercial telephone
33 solicitors subject to regulation under this chapter shall pay the
34 annual maintenance fee before doing business in this state.

35 (d) Persons wishing to have their phone numbers placed on the list
36 must notify the department of licensing. A listing shall be effective
37 for two years, after which the person may renew the listing for
38 successive two-year periods by notifying the department of licensing.

1 The department of licensing shall determine the notification
2 requirements.

3 (e) All fees collected by the department of licensing under this
4 section, and civil penalties and attorneys' fees collected by the
5 attorney general in enforcing this section, shall be deposited in the
6 commercial telephone solicitation account created in section 5 of this
7 act, and used solely for the administration of this section.

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

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

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

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

28 The commercial telephone solicitation account is created in the
29 custody of the state treasurer. All moneys received by the department
30 under section 4 of this act and civil penalties and attorneys' fees
31 collected by the attorney general in enforcing section 4 of this act
32 shall be deposited in the commercial telephone solicitation account and
33 used solely for the administration of section 4 of this act. Only the
34 director of the department of licensing or the director's designee may
35 authorize expenditures from the account. The account is subject to
36 allotment procedures under chapter 43.88 RCW, but no appropriation is
37 required for expenditures.

1 NEW SECTION. **Sec. 6.** Sections 4 and 5 of this act take effect
2 January 1, 2002."

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7 On page 1, line 1 of the title, after "solicitation;" strike the
8 remainder of the title and insert "amending RCW 19.158.110; adding new
9 sections to chapter 19.158 RCW; prescribing penalties; and providing an
10 effective date."

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