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**HOUSE BILL 1497**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Mosbrucker, Chandler, Peterson, Dent, Schmick, Steele, Pollet, Eslick, and Young

AN ACT Relating to commercial telephone solicitation; amending RCW 80.36.390, 19.158.040, and 19.158.110; and adding a new section to chapter 19.158 RCW.

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

**Sec.**  RCW 80.36.390 and 2015 c 53 s 95 are each amended to read as follows:

(1) As used in this section, "telephone solicitation" means the unsolicited initiation of a telephone call by a commercial or nonprofit company or organization to a ((~~residential telephone customer~~)) person and conversation for the purpose of encouraging ((~~a~~)) the person to purchase property, goods, or services or soliciting donations of money, property, goods, or services. "Telephone solicitation" does not include:

(a) Calls made in response to a request or inquiry by the called party. This includes calls regarding an item that has been purchased by the called party from the company or organization during a period not longer than twelve months prior to the telephone contact;

(b) Calls made by a not-for-profit organization to its own list of bona fide or active members of the organization;

(c) Calls limited to polling or soliciting the expression of ideas, opinions, or votes; or

(d) Business-to-business contacts.

For purposes of this section, each individual real estate agent or insurance agent who maintains a separate list from other individual real estate or insurance agents shall be treated as a company or organization. For purposes of this section, an organization as defined in RCW 29A.04.086 or 29A.04.097 and organized pursuant to chapter 29A.80 RCW shall not be considered a commercial or nonprofit company or organization.

(2) ((~~A person making a telephone solicitation must identify him or herself and the company or organization on whose behalf the solicitation is being made and the purpose of the call within the first thirty seconds of the telephone call.~~

~~(3)~~)) As used in this section, "telephone solicitor" means a commercial or nonprofit company or organization engaged in telephone solicitation.

(3)(a) At the beginning of each answered call, a telephone solicitor must:

(i) Identify the caller;

(ii) Identify the company or organization on whose behalf the solicitation is being made;

(iii) State the purpose of the call; and

(iv) Ask the called party whether they want to continue the call, end the call, or be removed from the solicitor's telephone lists.

(b) The disclosures and question required by this subsection must be conveyed in the listed order immediately after the call recipient answers and completed within 30 seconds.

(4) If, at any time during the telephone contact, the called party states or indicates they want to end the call, the telephone solicitor must end the call within 10 seconds.

(5) If, at any time during the telephone contact, the called party states or indicates that he or she does not ((~~wish~~)) want to be called again by the ((~~company or organization~~)) telephone solicitor or wants to have his or her name ((~~and~~)), individual telephone number, or other contact information removed from the telephone lists used by the ((~~company or organization making the telephone solicitation, then~~)) telephone solicitor:

(a) The telephone solicitor shall inform the called party that his or her contact information will be removed from the telephone solicitor's telephone lists for at least one year;

(b) The telephone solicitor shall end the call within 10 seconds;

(c) The ((~~company or organization~~)) telephone solicitor shall not make any additional telephone solicitation of the called party at ((~~that telephone number~~)) any telephone number associated with that party within a period of at least one year; and

((~~(b)~~)) (d) The ((~~company or organization~~)) telephone solicitor shall not sell or give the called party's name ((~~and~~)), telephone number, and other contact information to another company or organization: PROVIDED, That the ((~~company or organization~~)) telephone solicitor may return the list, including the called party's name ((~~and~~)), telephone number, and other contact information to the company or organization from which it received the list.

((~~(4)~~)) (6) A telephone solicitor shall not place calls to any person which will be received before 8:00 a.m. or after 5:00 p.m. at the call recipient's local time.

(7) A violation of subsection ((~~(2) or~~)) (3), (4), (5), or (6) of this section is punishable by a fine of up to one thousand dollars for each violation.

((~~(5)~~)) (8) The attorney general may bring actions to enforce compliance with this section. For the first violation by any ((~~company or organization~~)) telephone solicitor of this section, the attorney general shall notify the ((~~company~~)) telephone solicitor with a letter of warning that the section has been violated.

((~~(6)~~)) (9) A person aggrieved by repeated violations of this section may bring a civil action in superior court to enjoin future violations, to recover damages, or both. The court shall award damages of at least one hundred dollars for each individual violation of this section. If the aggrieved person prevails in a civil action under this subsection, the court shall award the aggrieved person reasonable attorneys' fees and cost of the suit.

((~~(7)~~)) (10) The utilities and transportation commission shall by rule ensure that telecommunications companies inform their residential customers of the provisions of this section. The notification may be made by (a) annual inserts in the billing statements mailed to residential customers, or (b) conspicuous publication of the notice in the consumer information pages of local telephone directories.

**Sec.**  RCW 19.158.040 and 2002 c 86 s 284 are each amended to read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the director of the department of licensing may take disciplinary action for any of the following conduct, acts, or conditions:

(1) It shall be unlawful for any person to engage in unfair or deceptive commercial telephone solicitation.

(2) A commercial telephone solicitor shall not place calls to any ((~~residence~~)) person which will be received before 8:00 a.m. or after ((~~9:00~~)) 5:00 p.m. at the ((~~purchaser's~~)) call recipient's local time.

(3) A commercial telephone solicitor may not engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

(4) A commercial telephone solicitor must begin each answered call by identifying the caller, identifying the company or organization on whose behalf the solicitation is being made, stating the purpose of the call, and asking the called party whether they want to continue the call, end the call, or be removed from the solicitor's telephone lists. These disclosures and question must be conveyed in the listed order immediately after the call recipient answers and completed within 30 seconds.

(5) A commercial telephone solicitor must end a call within 10 seconds if the called party states or indicates they want to end the call.

(6) A commercial telephone solicitor must promptly implement a call recipient's statement or indication they do not want to be called again, or want to be removed from the telephone lists used by the company or organization making the telephone solicitation.

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

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

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

~~(b) Terminate the telephone call within ten seconds if the purchaser indicates he or she does not wish to continue the conversation~~)) (a) At the beginning of each answered call, a commercial telephone solicitor must:

(i) Identify the caller;

(ii) Identify the company or organization on whose behalf the solicitation is being made;

(iii) State the purpose of the call; and

(iv) Ask the called party whether they want to continue the call, end the call, or be removed from the solicitor's telephone lists.

(b) The disclosures and question required by this subsection must be conveyed in the listed order immediately after the call recipient answers and completed within 30 seconds.

(2) If, at any time during the telephone contact, the called party states or indicates that he or she wants to end the call, the telephone solicitor must end the call within 10 seconds.

(3) If at any time during the telephone contact, the ((~~purchaser~~)) called party states or indicates that he or she does not ((~~wish~~)) want to be called again by the commercial telephone solicitor or wants to have his or her name ((~~and~~)), individual telephone number, or other contact information removed from the telephone lists used by the commercial telephone solicitor:

(a) The commercial telephone solicitor shall inform the called party that his or her contact information will be removed from the telephone solicitor's telephone lists for at least one year;

(b) The commercial telephone solicitor shall end the call within 10 seconds.

(c) The commercial telephone solicitor shall not make any additional commercial telephone solicitation of the called party at ((~~that~~)) any telephone number associated with that party within a period of at least one year; and

((~~(b)~~)) (d) The commercial telephone solicitor shall not sell or give the called party's name ((~~and~~)), telephone number, or other contact information to another commercial telephone solicitor: PROVIDED, That the commercial telephone solicitor may return the list, including the called party's name ((~~and~~)), telephone number, and other contact information to the company or organization from which it received the list.

((~~(3)~~)) (4) A commercial telephone solicitor shall not place calls to any person which will be received before 8:00 a.m. or after 5:00 p.m. at the call recipient's local time.

(5) The utilities and transportation commission shall by rule ensure that telecommunications companies inform their residential customers of the provisions of this section. The notification may be made by:

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

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

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

((~~(5)~~)) (7) If, at any time prior to sale or agreement to purchase, the commercial telephone solicitor's registration number is requested by the purchaser, it must be provided.

((~~(6)~~)) (8) All oral disclosures required by this section shall be made in a clear and intelligible manner.

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

The office of the attorney general shall provide and maintain a web page informing the public of the laws and regulations governing telephone solicitation, including the provisions of this chapter and RCW 80.36.390, and the legal rights of those who receive telephone solicitations; and provide information on how members of the public may file a complaint for violations of the laws and regulations governing telephone solicitation.

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