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SENATE BILL 5033

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State of Washington

58th Legislature

2003 Regular Session

By Senators Kastama, Eide, Jacobsen, Winsley, Rasmussen, Fairley, Keiser, Kline and Oke

Read first time 01/13/2003. Referred to Committee on Technology & Communications.

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

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 the  
11 solicitation is being made, the property, goods, or services being  
12 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 again by  
18 the commercial telephone solicitor or wants to have his or her name and

1 individual telephone number removed from the telephone lists used by  
2 the commercial telephone solicitor:

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

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

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

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

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

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

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

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

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

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

1 department shall establish a fee sufficient to support the costs of  
2 administering and enforcing this section. Each commercial telephone  
3 solicitor registered under this chapter must purchase the list after  
4 every quarterly update.

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

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

17 (2) No commercial telephone solicitor may make a commercial  
18 telephone solicitation to any telephone number more than sixty days  
19 after the number appears on the current do not call list. Except that  
20 no commercial telephone solicitor may be liable if the solicitor  
21 demonstrates that: (a) The solicitor established and implemented  
22 written procedures and trained its employees to follow such procedures  
23 to comply with this section; (b) the solicitor deleted from its call  
24 list any listing of a number on the then current quarterly do not call  
25 list; and (c) the call was made inadvertently.

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

1 (4) 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, 2004.

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