
SUBSTITUTE SENATE BILL 5276

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Kohl-Welles, Poulsen, Rockefeller, Morton, Shin, Pridemore, Holmquist and Rasmussen)

READ FIRST TIME 02/15/07.

1 AN ACT Relating to automatic dialing and announcing devices;
2 amending RCW 80.36.400; creating a new section; and prescribing
3 penalties.

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

5 NEW SECTION. **Sec. 1.** Protecting the well-being, tranquility, and
6 privacy of the home is of the highest order in a free and civilized
7 society; and the efficient conduct of private businesses and government
8 operations are of significant government interest. The legislature
9 finds that automatic dialing and announcing devices uniquely intrude
10 into these interests.

11 **Sec. 2.** RCW 80.36.400 and 1986 c 281 s 2 are each amended to read
12 as follows:

13 (1) (~~As used in this section:~~) The definitions in this subsection
14 apply throughout this section unless the context clearly requires
15 otherwise.

16 (a) (~~An~~) "Automatic dialing and announcing device" (~~is~~) means
17 a device which automatically dials telephone numbers and plays a
18 recorded message once a connection is made.

1 (b) "Commercial solicitation" means the unsolicited initiation of
2 a telephone conversation for the purpose of encouraging a person to
3 purchase property, goods, or services.

4 (c) "Message" means any communication, regardless of its content,
5 that is not a commercial solicitation as defined in this subsection.

6 (2) No person may use an automatic dialing and announcing device
7 for purposes of commercial solicitation. This section applies to all
8 commercial solicitation intended to be received by telephone customers
9 within the state.

10 ~~(3) ((A violation of this section is a violation of chapter 19.86~~
11 ~~RCW. It shall be presumed that damages to the recipient of commercial~~
12 ~~solicitations made using an automatic dialing and announcing device are~~
13 ~~five hundred dollars.~~

14 ~~(4))~~ No person may use an automatic dialing and announcing device
15 before 9:00 a.m. or after 9:00 p.m.

16 (4) This section does not apply to the following:

17 (a) Messages from federal, state, or local government entities or
18 municipal corporations;

19 (b) Messages from schools to their students, parents, guardians, or
20 employees;

21 (c) Messages from businesses to their employees;

22 (d) Messages to called parties with whom the caller has a current
23 business or personal relationship if the message is for purposes other
24 than commercial solicitation; or

25 (e) Messages concerning an emergency affecting public safety.

26 (5) This section applies to all calls intended to be received by
27 telephone customers within the state.

28 (6) A recipient of a message from an automatic dialing and
29 announcing device may bring an action against a person who has violated
30 this section for the amount of one thousand dollars per violation.

31 (7) Nothing in this section shall be construed to prevent the
32 Washington utilities and transportation commission from adopting
33 additional rules regulating automatic dialing and announcing devices.

34 (8) No person or entity may use an automatic dialing and announcing
35 device unless:

36 (a) The called party has given written or electronic consent to
37 receive the message; or

1 (b) The recorded message is immediately preceded by a live operator
2 who obtains the called party's consent before the message is played.

3 (9) All messages delivered by an automatic dialing and announcing
4 device must begin with the following information:

5 (a) The name and contact information of the person or entity for
6 which the message is being made;

7 (b) The purpose of the message; and

8 (c) If applicable, the fact that the message intends to solicit
9 payment, donation, or commitment of funds.

10 (10) The legislature finds that the practices covered by this
11 section are matters vitally affecting the public interest for the
12 purpose of applying the consumer protection act, chapter 19.86 RCW. A
13 violation of this section is not reasonable in relation to the
14 development and preservation of business and is an unfair or deceptive
15 act in trade or commerce and an unfair method of competition for the
16 purpose of applying the consumer protection act, chapter 19.86 RCW.

17 NEW SECTION. Sec. 3. If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

--- END ---