

RCW 80.36.390 Telephone solicitation—Penalty. (1) (a) 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 person for the purpose of encouraging the person to purchase property, goods, or services, wrongfully obtaining anything of value, or soliciting donations of money, property, goods, or services.

(b) "Telephone solicitation" does not include:

(i) 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 12 months prior to the telephone contact;

(ii) Calls made by a not-for-profit organization, as defined by 26 U.S.C. Sec. 501 of the federal internal revenue code, to its own list of bona fide or active members of the organization;

(iii) Calls made by a membership or labor organization to its own list of bona fide or active members of the organization;

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

(v) Business-to-business contacts.

(c) "Telephone call" means any communication made through a telephone that uses a live person, artificial voice, or recorded message.

(2) (a) 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.

(b) 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.

(3) 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 30 seconds of the telephone call.

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

(5) If the telephone solicitor is requesting a donation or gift of money, the telephone solicitor must ask the called party whether they want to continue the call, end the call, or be removed from the solicitor's telephone lists.

(6) 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.

(7) If, at any time during the telephone contact, the called party states or indicates that he or she does not want to be called again by the telephone solicitor or wants to have his or her name, individual telephone number, or other contact information removed from the telephone lists used by the 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 telephone solicitor shall not make any additional telephone solicitation of the called party at any telephone number

that the called party has requested be removed from the solicitor's telephone lists for a period of at least one year; and

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

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

(9) No person may initiate, or cause to be initiated, a telephone solicitation to a telephone number registered on the do not call registry maintained by the federal government pursuant to telephone consumer protection act, 47 U.S.C. Sec. 227 and related regulations, as currently enacted or subsequently amended. This subsection applies to all telephone solicitation intended to be received by telephone customers within the state.

(10) It is unlawful for a person to initiate, or cause to be initiated, a telephone solicitation that violates 47 U.S.C. Sec. 227(e) (1), as currently written or as subsequently amended or interpreted by the federal government. This subsection applies to all telephone solicitation intended to be received by telephone customers within the state.

(11) A violation of subsection (3), (4), (5), (6), (7), (8), (9), or (10) of this section is punishable by a fine of up to \$1,000 for each violation.

(12) The attorney general may bring actions to enforce compliance with this section. The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(13) 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 \$1,000 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.

(14) 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 notice in the billing statements sent to residential customers, or (b) conspicuous publication of the notice in the consumer information pages of local telephone directories. [2023 c 103 § 3; 2022 c 195 § 1; 2015 c 53 § 95; 1987 c 229 § 13; 1986 c 277 § 2.]

Findings—Intent—2023 c 103: See note following RCW 80.36.400.

Legislative finding—1986 c 277: "The legislature finds that certain kinds of telephone solicitation are increasing and that these solicitations interfere with the legitimate privacy rights of the

citizens of the state. A study conducted by the utilities and transportation commission, as directed by the forty-ninth legislature, has found that the level of telephone solicitation in this state is significant to warrant regulatory action to protect the privacy rights of the citizens of the state. It is the intent of the legislature to clarify and establish the rights of individuals to reject unwanted telephone solicitations." [1986 c 277 § 1.]

Charitable solicitations: Chapter 19.09 RCW.

Commercial telephone solicitation: Chapter 19.158 RCW.