

# HOUSE BILL REPORT

## HB 1327

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As Reported By House Committee On:  
Energy & Utilities

**Title:** An act relating to telephone solicitations.

**Brief Description:** Changing provisions relating to telephone solicitations.

**Sponsors:** Representatives Heavey, Ludwig, Jones, Chappell, Johanson, Ballasiotes, Foreman, Flemming, G. Cole, Springer, Jacobsen, Wang, Brown, Quall and Locke.

**Brief History:**

Reported by House Committee on:  
Energy & Utilities, February 26, 1993, DP.

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### HOUSE COMMITTEE ON ENERGY & UTILITIES

**Majority Report:** Do pass. Signed by 8 members: Representatives Grant, Chair; Finkbeiner, Vice Chair; Casada, Ranking Minority Member; Johanson; Kessler; Kremen; Long; and Ludwig.

**Staff:** Harry Reinert (786-7110).

**Background:** Washington law currently regulates some telephone solicitation activities. Within the first 30 seconds of a telephone solicitation, the solicitor must identify himself or herself and the organization for which the solicitor is calling. If a person tells a telephone solicitor not to make any further solicitations, subsequent solicitations may result in a civil action for damages for \$100 a day or more. A fine of up to \$1,000 for each violation may be imposed on a person who violates the restrictions on telephone solicitation. The attorney general may also initiate a proceeding to enforce the restriction on unwanted soliciting. The provisions regulating telephone solicitation do not apply to calls made in reply to a request, calls made by a not-for-profit organization to its members, business calls, or calls limited to polling.

Oregon has enacted a statute which authorizes a telephone company to identify in its telephone directory customers who do not wish to receive telephone solicitations. A person who makes a telephone solicitation to a person who has been

identified in the directory is subject to a proceeding by the Oregon Attorney General's Office. According to Oregon Public Utility Commission staff, the option is offered statewide now. US West charges \$0.25 a month and GTE \$0.50 a month for the service. Between 1 and 2 percent of Oregon telephone customers have taken advantage of the ability to have their names tagged.

In 1991, Congress enacted the Telephone Consumer Protection Act (TCPA). The act includes a number of measures to regulate unsolicited telephone marketing calls and automated telephone calls. The TCPA directed the Federal Communications Commission (FCC) to adopt rules governing telephone solicitations. Among the directions to the FCC is the requirement that the rules it adopts to protect privacy rights do so "without the imposition of any additional charge to telephone subscribers." 47 U.S.C. § 227(c)(2). The TCPA explicitly allows state's to adopt more restrictive intrastate requirements relating to telephone solicitations. 47 U.S.C. § 227(e)(1)(D).

The FCC adopted its rules implementing the TCPA on September 17, 1992. The FCC, as directed by Congress, reviewed a wide range of options to protect consumer privacy, including special markings in telephone directories. The commission decided not to require special directory markings. It has instead ordered telemarketing companies to maintain "do-not-call lists."

**Summary of Bill:** A telephone company shall identify in its directories customers who do not wish to receive telephone solicitations. A telephone solicitor who solicits a person who has been so identified is subject to the civil penalties and fines that apply to other telephone solicitation violations. The UTC shall adopt rules directing any person publishing a telephone directory to identify parties who do not wish to receive telephone solicitations.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Unsolicited telephone marketing calls are a disturbance of a person's home. By including an identifying symbol in the telephone book, one can easily indicate an unwillingness to receive calls.

**Testimony Against:** The proposed solution to unsolicited telephone calls will not be effective. It will have no effect on out-of-state calls and will raise false expectations. A recent federal law will provide greater

protection by allowing people to remove their names from lists.

**Witnesses:** Rep. Mike Heavey, prime sponsor (pro); Tom Walker, US West (con); Bob Bratton, GTE Northwest (con); Joe Daniels, Direct Marketing Association (con); Terry Van, Washington Independent Telephone Association (con); and Tom Huff, Washington Retail Association (con).