

HOUSE BILL ANALYSIS

HB 1110

Title: An act relating to commercial telephone solicitation

Brief Description: Creating a means for persons to avoid receiving commercial telephone solicitation calls; creating civil penalties for commercial telephone solicitor who violate this chapter; making an appropriation; and requiring the Department of Licensing to report on implementation and costs of this chapter.

Sponsors: Representatives Romero, Crouse, Conway, Poulsen, Ogden, Hurst, Tokuda, Stensen, O'Brien, Haigh, Lantz, Cooper, Rockefeller, Kessler, McIntire

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Meeting Date: January 26, 1999

Bill Analysis Prepared by: Anntonette Alberti, (786-7117)

Background: Current state law requires telephone solicitors to register with the Department of Licensing and comply with the state Commercial Telephone Solicitation Act.

The act prohibits commercial telephone solicitors from making calls to residences which will be received before 8:00 a.m. or after 9:00 p.m. at the receiver's local time. The act also prohibits commercial telephone solicitors from harassing, intimidating or tormenting any person in connection with a solicitation call. Making a telephone solicitation violating these prohibitions is a violation of the Consumer Protection Act.

Current law excludes many categories of solicitors from the provisions of the Commercial Telephone Solicitation Act, including, among others: (1) persons making religious, charitable, political or other noncommercial calls; (2) persons calling previous customers; (3) persons selling newspapers, magazines, periodicals, or book/music club memberships, cable television access, prearranged funeral or cemetery services, or food intended for immediate consumption; (4) persons from supervised financial institutions; who are otherwise regulated as real estate agents or brokers; contractors; insurance agents, brokers, solicitors, or adjusters; franchise sellers; food fish or shellfish sellers; or collection agencies, when the transactions are governed by other laws; and (5) solicitors whose businesses are regulated by the

Washington Utilities and Transportation Commission or the Federal Communications Commission; registered commodity broker-dealers; and people selling securities.

Summary: The Legislature intends to create a means by which persons can opt out of receiving commercial telephone solicitations and a means for commercial telephone solicitors to identify those persons who wish to receive calls so that solicitors can more effectively use their resources.

A commercial telephone solicitor is defined as any person who engages in telephone solicitation with exemptions only for persons making calls for religious, charitable, political, or other noncommercial purposes.

A person who does not receive commercial telephone solicitation calls may, for ten dollars, have his or her telephone number placed on a list to be created and maintained by the Department of Licensing. The listing will be effective for one year, after which time listing may be renewed for a five dollar fee. Telephone solicitors may not call any number that appears in the then-current version of the list.

Any person injured by a commercial telephone solicitor calling a number on the list can bring an action in superior court to recover liquidated damages not less than \$500 but not more than \$2000, plus the costs and reasonable attorneys' fees associated with bringing the action. The Department of Licensing may refer evidence of violations to the Attorney General's Office. The Attorney General may send a warning letter to a violator upon his or her first violation. If the warning letter goes unheeded, the Attorney General may bring civil action to enjoin subsequent violations. If the court grants an injunction, it must also impose a civil penalty, not less than \$500 or more than \$2000.

All fees and penalties will be placed in the Commercial Telephone Solicitation List Account and will be used solely for the administration and enforcement of this chapter.

The Department of Licensing must report to the Senate Committee on Energy, Technology, and Telecommunications and the House of Representatives Committee on Technology, Telecommunications, and Energy by November 30, 2000.

Appropriation: \$50,000.00

Fiscal Note: Requested

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