
HOUSE BILL 1110

State of Washington

56th Legislature

1999 Regular Session

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

Read first time 01/14/1999. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to commercial telephone solicitation; amending RCW
2 19.158.110; adding a new chapter to Title 19 RCW; creating a new
3 section; prescribing penalties; and making an appropriation.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that persons should be
6 free of unwanted telephone calls from commercial telephone solicitors.
7 Opportunities for families to spend uninterrupted time together are
8 increasingly scarce and, consequently, increasingly precious. A
9 person's home should be a sanctuary from commercial solicitation if the
10 person so chooses. Many persons are discontent with having no
11 effective way to prevent intrusions upon their time by calls from
12 commercial telephone solicitors, beyond asking a solicitor not to call
13 again after the solicitor has called at least once. The legislature
14 intends to create a way for persons to post, in effect, a "no
15 solicitation" sign at their telephones, and a means by which commercial
16 telephone solicitors can screen persons who wish to receive calls from
17 those who do not, so that solicitors may more effectively use their
18 solicitation resources.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Commercial telephone solicitation" means an unsolicited
4 telephone call to a person initiated by a salesperson and conversation
5 for the purpose of inducing the person to purchase or invest in
6 property, goods, or services.

7 (2) "Commercial telephone solicitor" means any person who engages
8 in commercial telephone solicitation, including service bureaus.
9 However, "commercial telephone solicitor" does not include a person
10 making calls for religious, charitable, political, or other
11 noncommercial purposes.

12 (3) "Department" means the department of licensing.

13 (4) "Person" includes any individual, firm, association,
14 corporation, partnership, joint venture, sole proprietorship, or any
15 other business entity.

16 (5) "Salesperson" means any individual employed, appointed, or
17 authorized by a commercial telephone solicitor, whether referred to by
18 the commercial telephone solicitor as an agent, representative, or
19 independent contractor, who attempts to solicit or solicits a sale on
20 behalf of the commercial telephone solicitor.

21 (6) "Service bureau" means a commercial telephone solicitor who
22 contracts with any person to provide commercial telephone solicitation
23 services.

24 (7) "Solicit" means to initiate contact with a person for the
25 purpose of attempting to sell property, goods, or services, where such
26 person has expressed no interest within the previous ninety days in
27 purchasing, investing in, or obtaining information regarding the
28 property, goods, or services attempted to be sold.

29 NEW SECTION. **Sec. 3.** (1) Any person who does not wish to receive
30 commercial telephone solicitation calls may have his or her telephone
31 number placed on the list provided for in subsection (2) of this
32 section by notifying the department and paying an initial ten-dollar
33 listing fee. The notification must be made by a method prescribed by
34 the department. The listing shall be effective for one year, after
35 which the person may renew the listing for successive one-year periods
36 by giving annual renewal notices to the department and paying a five-
37 dollar fee each year the listing is renewed.

1 (2)(a) The department shall establish and maintain a list of the
2 telephone numbers of persons who have notified the department that they
3 do not wish to receive commercial telephone solicitation calls and who
4 have paid the fees required by subsection (1) of this section. The
5 department shall prescribe the method or methods by which persons may
6 notify the department of requests to be placed on the list or to renew
7 placements on the list.

8 (b) The department shall update the list quarterly, and shall
9 provide the list free of charge to commercial telephone solicitors upon
10 request.

11 (c) All fees collected by the department under this section or
12 civil penalties collected by the attorney general in enforcing this
13 section shall be deposited in the commercial telephone solicitation
14 list account created in section 6 of this act, and used solely for the
15 administration and enforcement of this section.

16 (3) No commercial telephone solicitor may make or cause to be made
17 a commercial telephone solicitation call to any telephone number if the
18 number appears in the then-current list of the telephone numbers of
19 persons who have notified the department that they do not want to
20 receive commercial telephone solicitation calls.

21 NEW SECTION. **Sec. 4.** The director of the department may make
22 rules, create forms, and issue orders as necessary to carry out the
23 provisions of this chapter, pursuant to chapter 34.05 RCW.

24 NEW SECTION. **Sec. 5.** (1) Any person injured by a violation of
25 section 3(3) of this act may bring a civil action in superior court to
26 recover liquidated damages of not less than five hundred dollars nor
27 more than two thousand dollars per violation, plus the costs of
28 bringing the action and reasonable attorneys' fees.

29 (2) The director of the department may refer to the attorney
30 general any available evidence concerning violations of this chapter or
31 violations of any rule adopted or order issued under this chapter. For
32 a first violation of section 3(3) of this act, the attorney general at
33 his or her discretion and with or without reference, may send the
34 commercial telephone solicitor a letter warning the solicitor to
35 refrain from further violations. The attorney general may bring a
36 civil action to enjoin future violations if the commercial telephone
37 solicitor commits subsequent violations after the attorney general has

1 sent a warning letter. In addition to granting appropriate injunctive
2 relief, the court shall impose a civil penalty of not less than five
3 hundred dollars nor more than two thousand dollars for each violation.

4 (3) No provision of this chapter shall be construed to limit any
5 right or remedy provided under chapter 19.86 or 19.158 RCW.

6 NEW SECTION. **Sec. 6.** The commercial telephone solicitation list
7 account is created in the custody of the state treasury. All moneys
8 received by the department under section 3 of this act or civil
9 penalties collected by the attorney general in enforcing section 3(3)
10 of this act shall be deposited in the commercial telephone solicitation
11 list account and used solely for the administration and enforcement of
12 section 3 of this act. Only the director of the department 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 **Sec. 7.** RCW 19.158.110 and 1989 c 20 s 11 are each amended to read
17 as follows:

18 (1) Within the first minute of the telephone call, a commercial
19 telephone solicitor or salesperson shall:

20 (a) Identify himself or herself, the company on whose behalf the
21 solicitation is being made, the property, goods, or services being
22 sold; and

23 (b) Terminate the telephone call within ten seconds if the
24 purchaser indicates he or she does not wish to continue the
25 conversation.

26 (2) If at any time during the telephone contact, the purchaser
27 states or indicates that he or she does not wish to be called again by
28 the commercial telephone solicitor or wants to have his or her name and
29 individual telephone number removed from the telephone lists used by
30 the commercial telephone solicitor:

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

34 (b) The commercial telephone solicitor shall not sell or give the
35 called party's name and telephone number to another commercial
36 telephone solicitor: PROVIDED, That the commercial telephone
37 solicitor may return the list, including the called party's name and

1 telephone number, to the company or organization from which it received
2 the list.

3 (3) The utilities and transportation commission shall by rule
4 ensure that telecommunications companies inform their residential
5 customers of the provisions of this section and section 3 of this act.
6 The notification may be made by:

7 (a) Annual inserts in the billing statements mailed to residential
8 customers; or

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

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

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

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

21 NEW SECTION. **Sec. 8.** Section 1 through 6 of this act constitute
22 a new chapter in Title 19 RCW.

23 NEW SECTION. **Sec. 9.** The sum of fifty thousand dollars, or as
24 much thereof as may be necessary, is appropriated for the fiscal year
25 ending June 30, 2000, from the general fund to the department of
26 licensing for the purposes of this act.

27 NEW SECTION. **Sec. 10.** By November 30, 2000, the department of
28 licensing shall report to the senate energy, technology and
29 telecommunications committee and house of representatives technology,
30 telecommunications and energy committee on the implementation of this
31 act and cost of administering and enforcing section 3 of this act.

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