

HOUSE BILL REPORT

SSB 6447

As Reported by House Committee On:
Technology, Telecommunications & Energy
Appropriations

Title: An act relating to the establishment and operation of a do not call list for commercial telephone solicitation.

Brief Description: Establishing a do not call list.

Sponsors: Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Kastama, Finkbeiner, Jacobsen, Shin, Franklin, Costa, Oke and Winsley).

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 2/28/02, 3/1/02 [DPA];
Appropriations: 3/2/02, 3/4/02 [DPA(TTE)].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Requires the Department of Licensing to establish a do not call list for those who do not wish to receive commercial telephone solicitations.
- Creates the commercial telephone solicitation account to receive fees paid by telephone solicitors and penalties recovered for violations as the revenue source to support the program.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: Do pass as amended. Signed by 17 members: Representatives Morris, Chair; Ruderman, Vice Chair; Anderson, Berkey, Bush, Casada, DeBolt, Esser, Hunt, Linville, Lysen, Nixon, Pflug, Reardon, Romero, Sullivan and Wood.

Minority Report: Without recommendation. Signed by 2 members: Representatives Crouse, Ranking Minority Member; and Delvin.

Staff: Pam Madson (786-7166).

Background:

Commercial telephone solicitors must register with the Department of Licensing and must comply with the state Commercial Telephone Solicitation Act.

Upon receiving an unsolicited commercial sales call, the person receiving the call may ask to be removed from the calling list used by the telephone solicitor and the solicitor may not make any further commercial solicitation calls to the person at that number for one year. The commercial telephone solicitor may not sell or give the number to another company or organization. Civil and criminal penalties may be imposed for violation of these provisions.

The Federal Communications Commission (FCC) rules require that telephone solicitors calling residential numbers keep a record of individuals who do not wish to receive any further calls. Under the Telephone Consumer Protection Act, a solicitor must honor its do not call list for 10 years.

There is no federally required national do not call list for telephone solicitations. However, the Federal Trade Commission has recently proposed the creation of a national do not call registry as part of a broader proposal to change telemarketing sales rules.

Individuals may voluntarily register with the Telephone Preference Service of the Direct Marketing Association. The Service commercially publishes lists of consumers who do not wish to receive solicitation calls. The list may be used by telephone solicitors who wish to remove these numbers from their calling lists to avoid potential violations and resulting penalties.

Summary of Amended Bill:

Do Not Call List: The Department of Licensing (DOL) is required to establish and maintain a do not call list and may contract with a private vendor to establish and maintain the list. Beginning July 1, 2003, consumers wishing to have their phone numbers placed on the do not call list must notify DOL. Consumers may list their phone numbers for two years at a time. There is no charge for listing a number or for obtaining a written or electronic copy of the list. The list is to be updated and distributed to commercial telephone solicitors on a quarterly basis.

The Washington Utilities and Transportation Commission must ensure by rule that telephone companies inform their residential customers of the do not call list provisions.

Unlawful Conduct: No commercial telephone solicitor may make a solicitation call to any number more than 60 days after the number appears on the list. A call is not considered a violation of the do not call provisions if the solicitor demonstrates: (1) that

written procedures have been established and implemented, and that employees have been trained in procedures that comply with the do not call list requirements; (2) that the numbers on the solicitor's calling list do not include numbers on the current do not call list; and (3) that the call was made inadvertently.

Revenue to Operate and Maintain the List: The DOL must establish an annual fee charged to registered commercial telephone solicitors. This fee is to be set in an amount which will cover the costs of administering and enforcing the do not call list provisions and of distributing the list quarterly. Moneys from civil penalties or attorneys fees are deposited in the account, and these funds are to be used to support DOL's activities relating to the do not call lists.

Dedicated Fund: All moneys collected by the DOL for fees and penalties are deposited into a dedicated account known as the commercial telephone solicitation account. Moneys in this account may be used only to administer the program. Expenditures need not be appropriated.

Enforcement: Provisions of the law are enforced by the Attorney General. A violation of this law is also a violation of the Consumer Protection Act. A consumer can bring an action against an individual telephone solicitor and may recover \$1,000 per violation.

Rules to implement: The DOL may adopt rules to implement this bill.

Amended Bill Compared to Substitute Bill:

The striking amendment moves the implementation date of the program from July 1, 2003, to January 1, 2003. The Department of Licensing is directed to take into account all civil penalties and attorneys' fees collected from actions taken against violators when setting the fee for commercial telephone solicitors. The language is modified that describes those calls that do not result in a violation of the do not call provisions.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on July 1, 2002, except for section 2(1)(b) which takes effect on January 1, 2003.

Testimony For: This bill is patterned after the New York law. The principles in drafting this bill were that the program should be free to those who want calls blocked and it should be simple. The Department of Licensing already deals with registering telemarketers and it makes sense for them to administer the program. The bill allows telemarketers to integrate this information into their lists for 60 days rather than the 30

days allowed under New York law. Telemarketing calls are annoying particular during meal time and during family time. Telemarketers target seniors and get them to buy the same thing over and over again. This bill will help. Something that should be looked at in the future is solicitations from charitable organizations. This bill would fill a hole in this state's consumer protection laws. A person should be able to have a phone without spending the evening answering unwanted calls. This bill takes a step in that direction. It won't stop all calls.

Testimony Against: None.

Testified: (In support) Senator Kastama, prime sponsor; Gene Forrester, Washington Senior Citizens Lobby; and Dave Horn, Office of the Attorney General.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Technology, Telecommunications & Energy. Signed by 24 members: Representatives Sommers, Chair; Doumit, 1st Vice Chair; Fromhold, 2nd Vice Chair; Sehlin, Ranking Minority Member; Alexander, Boldt, Buck, Clements, Cody, Cox, Dunshee, Grant, Kagi, Kenney, Kessler, Linville, Mastin, McIntire, Pearson, Pflug, Ruderman, Schual-Berke, Talcott and Tokuda.

Minority Report: Without recommendation. Signed by 1 member: Representative Lisk.

Staff: Linda Brooks (786-7153).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Technology, Telecommunications & Energy:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: None.

Testimony Against: None.

Testified: None.