

SENATE BILL REPORT

SB 5132

As Reported By Senate Committee On:
Economic Development & Telecommunications, February 20, 2001

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 for commercial telephone solicitation.

Sponsors: Senators Kastama, B. Sheldon, Rasmussen, Franklin, Snyder, Prentice, Costa, Fraser, McAuliffe, Kohl-Welles, Fairley, Jacobsen, Kline, Winsley and Eide.

Brief History:

Committee Activity: Economic Development & Telecommunications: 1/30/01, 2/20/01 [DPS].

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 5132 be substituted therefor, and the substitute bill do pass.

Signed by Senators T. Sheldon, Chair; B. Sheldon, Vice Chair; Fairley, Finkbeiner, Haugen, McCaslin and Stevens.

Staff: William Bridges (786-7424)

Background: State law requires commercial telephone solicitors to register with the Department of Licensing and comply with the Commercial Telephone Solicitation Act. Among other things, the act requires every solicitor to maintain a do-not-call list. When a consumer tells a solicitor to place his or her name and telephone number on the list, the solicitor cannot call the consumer for one year.

Federal law also requires commercial telephone solicitors to maintain do-not-call lists. Under the Telephone Consumer Protection Act, a solicitor must honor its do-not-call list for ten years.

No federal or state law creates a nationwide do-not-call list for telephone solicitations. About 15 states, however, have created statewide do-not-call lists. Some states, like Oregon and Georgia, have contracted with private vendors to establish and operate the lists. Other states, like Missouri and Idaho, require government agencies to operate the lists. And at least one state, Maine, requires solicitors to consult the do-not-call list maintained by the Direct Marketing Association.

Summary of Substitute Bill: The Department of Licensing must provide for the establishment and operation of a do-not-call list of telephone numbers. The list is to be

updated quarterly. Each commercial telephone solicitor registered to do business in the state is required to pay the department an annual fee to maintain the list.

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.

No commercial telephone solicitor may call a number on the list more than 60 days after it has been listed. A violation of this prohibition is a violation of the Consumer Protection Act, which provides for fines, treble damages, court costs, and attorneys' fees. In addition, a consumer may opt to sue for \$1,000 damages, court costs, and attorneys' fees.

All fees collected by the Department of Licensing, and civil penalties and attorneys' fees collected by the Attorney General in enforcing the do-not-call prohibition, must be deposited in an account for the exclusive administration of the do-not-call program. Interest generated from the account goes into the general fund.

The Washington Utilities and Transportation Commission must require telecommunications companies to inform residential customers of the do-not-call program, either by bill inserts or publication in local phone books.

Substitute Bill Compared to Original Bill: The following changes are made: (1) listings are effective for two years, instead of one year; (2) the effective date of a listing is changed from 30 days to 60 days from the time the number is listed; (3) registered commercial telephone solicitors must pay an annual fee to maintain the list, but they may obtain the list for free; (4) attorneys fees collected by the Attorney General in enforcing the do-not-call list must be deposited in the commercial telephone solicitation account; and (5) interest generated from the commercial telephone solicitation account goes into the general fund.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill will protect personal privacy. It is designed to be free to the consumer, to be easy to use, and to be easy to administer. The bill is based on a very successful New York program. Telemarketing calls are very irritating because they intrude on one's privacy. Dead ringers (a call with no person on the other end) are especially disquieting. Oregon has a successful do-not-call program. The Washington Attorney General's Office receives many complaints about telemarketers. Federal law has ineffective enforcement procedures. The do-not-call program could be improved by eliminating some of the current exceptions for commercial telephone solicitations. The state of Vermont has had success using the national Telephone Preference Service. The list should be limited to residential numbers. Companies that have taken reasonable practices to honor the do-not-call should not be punished.

Testimony Against: None.

Testified: Senator Kastama, prime sponsor; Joe Daniels, Direct Marketing Association (pro with suggestions); Sally Gustafson, Attorney General's Office (pro); Frank Lewis, Shelton (pro); Alan Rathbun, DOL (pro); Rosemary Williamson, Verizon (concerns).