

SENATE BILL REPORT

SB 5341

As Reported By Senate Committee On:
Economic Development & Telecommunications, February 14, 2001

Title: An act relating to prerecorded telephone messages.

Brief Description: Prohibiting recorded telephone messages.

Revised for 1st Substitute: Regarding commercial telephone solicitation.

Sponsors: Senators Finkbeiner, Horn, Winsley, McCaslin, Morton, Hale, Johnson and McDonald.

Brief History:

Committee Activity: Economic Development & Telecommunications: 1/30/01, 2/14/01[DPS].

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 5341 be substituted therefor, and the substitute bill do pass.

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

Staff: William Bridges (786-7424)

Background: State law generally prohibits commercial solicitations by automatic dialing and announcing devices (ADADs), which are computer based machines that automatically dial telephone numbers and play prerecorded messages. Commercial solicitations are unsolicited calls for the purpose of encouraging persons to buy property, goods or services. ADADs may be used for commercial solicitations if a human operator first identifies the caller and seeks the consumer's permission to play a recorded message.

The ADAD law presumes that persons will suffer damages of \$500 per violation of the law. A violation of the ADAD law is also a violation of the Consumer Protection Act, which provides for fines, treble damages, court costs, and attorneys' fees.

Federal law generally prohibits computerized voice or prerecorded calls to residences. However, computerized voice or prerecorded messages can be used for the following calls:

- Calls for emergency purposes;
- Calls made with the prior express consent of the consumer;
- Calls that are non-commercial, such as calls from polling organizations and government agencies;
- Calls which do not include unsolicited advertisements;
- Calls by or on behalf of tax-exempt nonprofit organizations; and

- Calls from entities with whom the consumer has an established business relationship.

Furthermore, federal law prohibits anyone from using a computerized voice or prerecorded message to call (1) emergency telephone services, (2) guest or patient rooms of hospitals or elderly homes, (3) wireless telephone services, and (4) services where called parties are charged for receiving calls. Consumers may enforce the federal prohibitions by contacting their state's attorney general or by personally suing in state court for the greater of actual damages or \$500.

Summary of Substitute Bill: Prerecorded telephone solicitations are prohibited without an introduction by an unrecorded voice informing the consumer of (1) the identity and telephone number of the caller and (2) the option to immediately discontinue the call. The prohibition does not apply to the following: (1) calls made with the prior consent of the consumer; (2) calls related to the public health, safety, and welfare; and (3) noncommercial recorded messages to a person with whom the caller has had a business relationship within the past 12 months.

Commercial telephone solicitors must provide information that is required for a Caller ID service if the service is available. Commercial telephone solicitors may not circumvent or interfere with a Caller ID service.

In addition to remedies provided by the Consumer Protection Act, a consumer may opt to sue for \$1,000 damages, court costs, and attorneys' fees.

The Washington Utilities and Transportation Commission must require telecommunications companies to inform residential customers of the new prohibitions, either by bill inserts or publication in local phone books.

Substitute Bill Compared to Original Bill: The substitute creates an exception for noncommercial recorded messages to a person with whom the caller has had a business relationship within the past 12 months; clarifies that public health, safety, and welfare--includes noncommercial recordings from schools, libraries, and entities conducting medical research; requires commercial telephone solicitors to provide information that is required for a Caller ID service if the service is available; and requires that commercial telephone solicitors may not circumvent or interfere with a Caller ID service.

Appropriation: None.

Fiscal Note: Requested on January 29, 2001.

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

Testimony For: Recorded messages are irritating and impolite. When telemarketers reach an answering machine, they usually hang up--they do not like recorded messages either.

Testimony Against: None.

Testified: Frank Lewis, Shelton, WA (pro); Terry Lambardo, Olympia, WA (pro); Rosemary Williamson, Verizon (concerns).

