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SENATE BILL 5339

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State of Washington

57th Legislature

2001 Regular Session

By Senators Finkbeiner, Horn, Hale, McCaslin, Morton, Winsley,  
Johnson, Stevens, McDonald, Hewitt, Carlson, Long, Swecker and Kline

Read first time 01/19/2001. Referred to Committee on Economic  
Development & Telecommunications.

1 AN ACT Relating to telephone solicitation by use of automatic  
2 dialing devices; amending RCW 19.158.110 and 80.36.400; and  
3 prescribing penalties.

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

5 **Sec. 1.** RCW 19.158.110 and 1989 c 20 s 11 are each amended to read  
6 as follows:

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

9 (a) Identify himself or herself, the company on whose behalf  
10 the solicitation is being made, the property, goods, or services  
11 being sold; and

12 (b) Terminate the telephone call within ten seconds if the  
13 purchaser indicates he or she does not wish to continue the  
14 conversation.

15 (2) If at any time during the telephone contact, the purchaser  
16 states or indicates that he or she does not wish to be called  
17 again by the commercial telephone solicitor or wants to have his

1 or her name and individual telephone number removed from the  
2 telephone lists used by the commercial telephone solicitor:

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

6 (b) The commercial telephone solicitor shall not sell or give  
7 the called party's name and telephone number to another commercial  
8 telephone solicitor: PROVIDED, That the commercial telephone  
9 solicitor may return the list, including the called party's name  
10 and telephone number, to the company or organization from which it  
11 received the list.

12 (3) The utilities and transportation commission shall by rule  
13 ensure that telecommunications companies inform their residential  
14 customers of the provisions of this section and RCW 80.36.400.

15 The notification may be made by:

16 (a) Annual inserts in the billing statements mailed to  
17 residential customers; or

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

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

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

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

30 **Sec. 2.** RCW 80.36.400 and 1986 c 281 s 2 are each amended to read  
31 as follows:

32 (1) As used in this section:

33 (a) An automatic dialing and announcing device is a device  
34 which automatically dials telephone numbers and plays a recorded  
35 message once a connection is made.

36 (b) (~~Commercial~~) Telephone solicitation means the unsolicited

1 initiation of a telephone conversation for the purpose of  
2 encouraging a person to purchase property, goods, or services or  
3 soliciting donations of money, property, goods, or services.

4 (2) No person may use an automatic dialing and announcing  
5 device for purposes of ~~((commercial))~~ telephone solicitation. This  
6 section applies to all ~~((commercial))~~ telephone solicitation  
7 intended to be received by telephone customers within the state.

8 (3) The legislature finds that the practices covered by this  
9 section are matters vitally affecting the public interest for the  
10 purpose of applying the consumer protection act, chapter 19.86  
11 RCW. A violation of this section is ~~((a violation of))~~ not  
12 reasonable in relation to the development and preservation of  
13 business and is an unfair or deceptive act in trade or commerce  
14 and an unfair method of competition for the purpose of applying  
15 the consumer protection act, chapter 19.86 RCW. ~~((It shall be~~  
16 presumed that damages to the recipient of commercial solicitations  
17 made using an automatic dialing and announcing device are five  
18 hundred dollars.)) In addition to any other penalties or remedies  
19 available under this chapter or chapter 19.86 RCW, a person  
20 injured by a violation of this section may bring an action for  
21 recovery of liquidated damages in the amount of one thousand  
22 dollars per violation, plus court costs and attorneys' fees.

23 (4) Nothing in this section shall be construed to prevent the  
24 Washington utilities and transportation commission from adopting  
25 additional rules regulating automatic dialing and announcing  
26 devices.

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