

SENATE BILL REPORT

SB 5033

As of February 26, 2003

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: Senators Kastama, Eide, Jacobsen, Winsley, Rasmussen, Fairley, Keiser, Kline and Oke.

Brief History:

Committee Activity: Technology & Communications: 2/27/03.

SENATE COMMITTEE ON TECHNOLOGY & COMMUNICATIONS

Staff: William Bridges (786-7424)

Background: Company-Specific Do-Not-Call Lists. 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.

Statewide and National Do-Not-Call Lists. About 27 states have created statewide do-not-call lists. Some states have contracted with private vendors to establish and operate the lists. Other states require government agencies to operate the lists. And at least one state requires solicitors to consult the do-not-call list maintained by the Direct Marketing Association.

The Federal Trade Commission enacted a regulation on January 29, 2003, establishing a national do-not-call registry to be created and operated by a vendor. The FTC anticipates that the registry will be partially funded by fees levied on telephone solicitors. However, the FTC currently lacks the authority to levy such fees and has sought congressional authorization to fund the registry.

On February 13, 2003, Congress approved a bill authorizing the FTC to collect fees from telephone solicitors from 2003 to 2007. The bill also requires the FTC and the FCC to report to Congress their proposals for coordinating regulations for the do-not-call list. The bill is awaiting the President's signature. The FTC anticipates that it will take approximately seven months to establish the registry following enactment of the law.

The Direct Marketing Association and other companies have filed a federal lawsuit challenging the FTC's do-not-call registry.

Summary of 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 doing business in the state must purchase the list for a fee. The department must establish a fee sufficient to support the costs of administering and enforcing the list.

Phone numbers may be listed for two years at a time. The department must determine how telephone numbers are listed.

No commercial telephone solicitor may call a number on the list more than 60 days after it has been listed. However, an inadvertent call is not counted as a violation if: (a) the solicitor established and implemented written procedures and trained its employees to follow such procedures; and (b) the solicitor deleted from its call list any number on the then current quarterly do not call list.

A violation of the do-not-call law is a violation of the Consumer Protection Act, which provides for fines, treble damages, court costs, and attorneys' fees. In addition, a person 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.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2004.