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**SUBSTITUTE HOUSE BILL 1252**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** House Committee on Technology, Energy & Communications (originally sponsored by Representatives Hunter, Buri, McIntire, Springer, Rodne, Kagi, Fromhold, Kirby, Hinkle, Jarrett, McCoy, B. Sullivan, Appleton, Takko, Newhouse, Miloscia, Blake, Kenney, Dickerson, Haigh, P. Sullivan, Darneille, Moeller, Schual-Berke, Eddy, Santos and Rolfes)

READ FIRST TIME 02/15/07.

1 AN ACT Relating to establishing restrictions on prerecorded  
2 telephone calls; amending RCW 80.36.400; and prescribing penalties.

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

4 **Sec. 1.** RCW 80.36.400 and 1986 c 281 s 2 are each amended to read  
5 as follows:

6 (1) ~~((As used in this section:))~~ The definitions in this subsection  
7 apply throughout this section unless the context clearly requires  
8 otherwise.

9 (a) ~~((An))~~ "Automatic dialing and announcing device" ~~((is))~~ means  
10 a device which automatically dials telephone numbers and plays a  
11 recorded message once a connection is made.

12 (b) ~~((Commercial solicitation means the unsolicited initiation of~~  
13 ~~a telephone conversation for the purpose of encouraging a person to~~  
14 ~~purchase property, goods, or services.))~~ "Caller" means an individual,  
15 corporation, limited liability company, partnership, unincorporated  
16 association, or the entity that attempts to contact, or contacts, a  
17 subscriber in the state on the subscriber's telecommunications device,  
18 regardless of whether the call is made through a wireline, wireless,  
19 voice-over internet protocol, or other telecommunications service. A

1 caller may also include the business entity or affiliated organization  
2 that contracted for the call, regardless of whether the call is placed  
3 from inside or outside the state.

4 (c) "Subscriber" means a person who has subscribed to receive  
5 telecommunications service in Washington from a provider of  
6 telecommunications services including, but not limited to, wireline,  
7 wireless, and voice-over internet protocol services, or a person  
8 residing with the subscribing person.

9 ~~(2) ((No person may use))~~ A caller may not use or connect to a  
10 telecommunications line an automatic dialing and announcing device  
11 ~~((for purposes of commercial solicitation. This section applies to all~~  
12 ~~commercial solicitation intended to be received by telephone customers~~  
13 ~~within the state.~~

14 ~~(3) A violation of this section is a violation of chapter 19.86~~  
15 ~~RCW. It shall be presumed that))~~ to place calls to subscribers who  
16 reside in Washington and whose telephone numbers are assigned to the  
17 state of Washington under the North American numbering plan unless:  
18 (a) The subscriber has knowingly or voluntarily requested, consented  
19 to, permitted, or authorized receipt of the message; or (b) the message  
20 is immediately preceded by a live operator who discloses who is paying  
21 for the message at the beginning of the call and obtains the  
22 subscriber's consent before the message is delivered.

23 (3) Subsection (2) of this section does not apply to the following:

24 (a) Messages from school districts to students, parents, or  
25 employees;

26 (b) Messages to subscribers with whom the caller has a current  
27 business or personal relationship;

28 (c) Messages concerning an emergency affecting public safety;

29 (d) Messages advising employees of work schedules; or

30 (e) Messages from federal, state, or local government entities or  
31 municipal corporations.

32 (4) The legislature finds that the practices covered by this  
33 section are matters vitally affecting the public interest for the  
34 purpose of applying the consumer protection act, chapter 19.86 RCW. A  
35 violation of this section is not reasonable in relation to the  
36 development and preservation of business and is an unfair or deceptive  
37 act in trade or commerce and an unfair method of competition for the  
38 purpose of applying the consumer protection act, chapter 19.86 RCW.

1 Damages to the recipient ((of commercial solicitations made)) for  
2 receiving a recorded message using an automatic dialing and announcing  
3 device are five hundred dollars per violation.

4 ((+4)) (5) Nothing in this section shall be construed to prevent  
5 the Washington utilities and transportation commission from adopting  
6 additional rules regulating automatic dialing and announcing devices.

7 NEW SECTION. Sec. 2. If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

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