

By the Committees on Criminal Justice; Banking and Insurance;  
and Senators Aronberg, Fasano, Lawson and Bullard

307-2419-03

1                                   A bill to be entitled  
2           An act relating to consumer protection;  
3           creating ss. 501.165, 501.166, F.S.;  
4           prohibiting the use of deception to obtain  
5           certain personal information for commercial  
6           solicitation purposes; prohibiting the sale or  
7           disclosure of personal customer information by  
8           persons in bankruptcy; amending s. 501.2075,  
9           F.S.; providing an exception to a civil  
10          penalty; creating s. 501.2076, F.S.;  
11          prohibiting falsely representing oneself as  
12          being affiliated with a law enforcement or  
13          firefighting agency or public utility;  
14          providing a penalty; providing that a violation  
15          of s. 817.568, F.S., is an unfair or deceptive  
16          act or practice or unfair method of competition  
17          in violation of part II of ch. 501, F.S.;  
18          providing penalties; amending ss. 501.23 and  
19          501.24, F.S.; changing obsolete dates;  
20          providing an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:  
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24           Section 1. Section 501.2076, Florida Statutes, is  
25          created to read:  
26                   501.2076 Misrepresentations; law enforcement,  
27          firefighters, or public utilities.--Any person who engages in  
28          a deceptive and unfair trade practice with the intent to  
29          deceive another person into believing that he or she is  
30          affiliated with a law enforcement agency, firefighting agency,  
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1 or public utility is subject to a civil penalty not to exceed  
2 \$15,000 for each violation.

3 Section 2. Section 501.165, Florida Statutes, is  
4 created to read:

5 501.165 Obtaining personal information for commercial  
6 solicitation.--Any person who uses deceptive practices or  
7 means to obtain another person's address, telephone number, or  
8 social security number and uses it to engage in commercial  
9 solicitation commits an unfair or deceptive act or practice or  
10 unfair method of competition in violation of part II of this  
11 chapter, and is subject to the penalties and remedies provided  
12 for such violation, in addition to remedies otherwise  
13 available for such conduct.

14 Section 3. Section 501.2075, Florida Statutes, is  
15 amended to read:

16 501.2075 Civil penalty.--Except as provided in s.  
17 501.2076 or s. 501.2077, any person, firm, corporation,  
18 association, or entity, or any agent or employee of the  
19 foregoing, who is willfully using, or has willfully used, a  
20 method, act, or practice declared unlawful under s. 501.204,  
21 or who is willfully violating any of the rules of the  
22 department adopted under this part, is liable for a civil  
23 penalty of not more than \$10,000 for each such violation.  
24 Willful violations occur when the person knew or should have  
25 known that his or her conduct was unfair or deceptive or  
26 prohibited by rule. This civil penalty may be recovered in  
27 any action brought under this part by the enforcing authority;  
28 or the enforcing authority may terminate any investigation or  
29 action upon agreement by the person, firm, corporation,  
30 association, or entity, or the agent or employee of the  
31 foregoing, to pay a stipulated civil penalty. The department

1 or the court may waive any such civil penalty if the person,  
2 firm, corporation, association, or entity, or the agent or  
3 employee of the foregoing, has previously made full  
4 restitution or reimbursement or has paid actual damages to the  
5 consumers or governmental entities who have been injured by  
6 the unlawful act or practice or rule violation. If civil  
7 penalties are assessed in any litigation, the enforcing  
8 authority is entitled to reasonable attorney's fees and costs.  
9 A civil penalty so collected shall accrue to the state and  
10 shall be deposited as received into the General Revenue Fund  
11 unallocated.

12 Section 4. Section 501.166, Florida Statutes, is  
13 created to read:

14 501.166 Selling personal customer information.--

15 (1) A person who files for bankruptcy may not sell or  
16 otherwise transfer to another any database that contains  
17 personal customer information if the bankrupt person, through  
18 contract or a published privacy policy, agreed or stated that  
19 such personal customer information would not be disclosed.

20 (2) A person who violates or fails to comply with  
21 subsection (1) commits an unfair or deceptive act or practice  
22 or unfair method of competition in violation of part II of  
23 this chapter and is subject to the penalties and remedies  
24 provided for such violation, in addition to remedies otherwise  
25 available for such conduct.

26 Section 5. A person who violates or fails to comply  
27 with any provision of section 817.568, Florida Statutes,  
28 commits an unfair or deceptive act or practice or unfair  
29 method of competition in violation of part II of chapter 501,  
30 Florida Statutes, and is subject to the penalties and remedies

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1 provided for such violation, in addition to remedies otherwise  
2 available for such conduct.

3 Section 6. Subsection (3) of section 501.203, Florida  
4 Statutes, is amended to read:

5 501.203 Definitions.--As used in this chapter, unless  
6 the context otherwise requires, the term:

7 (3) "Violation of this part" means any violation of  
8 this act or the rules adopted under this act and may be based  
9 upon any of the following as of July 1, 2003 ~~2001~~:

10 (a) Any rules promulgated pursuant to the Federal  
11 Trade Commission Act, 15 U.S.C. ss. 41 et seq.;

12 (b) The standards of unfairness and deception set  
13 forth and interpreted by the Federal Trade Commission or the  
14 federal courts;

15 (c) Any law, statute, rule, regulation, or ordinance  
16 which proscribes unfair methods of competition, or unfair,  
17 deceptive, or unconscionable acts or practices.

18 Section 7. Subsection (2) of section 501.204, Florida  
19 Statutes, is amended to read:

20 501.204 Unlawful acts and practices.--

21 (2) It is the intent of the Legislature that, in  
22 construing subsection (1), due consideration and great weight  
23 shall be given to the interpretations of the Federal Trade  
24 Commission and the federal courts relating to s. 5(a)(1) of  
25 the Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1) as of  
26 July 1, 2003 ~~2001~~.

27 Section 8. This act shall take effect July 1, 2003.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS/SB 1580

Updates obsolete date references to various federal and state laws in ss. 501.203 (definitions) and 501.204 (unlawful acts and practices), F.S., relevant to the Florida Deceptive and Unfair Trade Practices Act.