

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; providing an exception;
9 amending s. 501.2075, F.S.; providing an
10 exception to a civil penalty; creating s.
11 501.2076, F.S.; prohibiting falsely
12 representing oneself as being affiliated with a
13 law enforcement or firefighting agency or
14 public utility; providing a penalty; providing
15 that a violation of s. 817.568, F.S., is an
16 unfair or deceptive act or practice or unfair
17 method of competition in violation of part II
18 of ch. 501, F.S.; providing penalties; amending
19 ss. 501.23 and 501.24, F.S.; changing obsolete
20 dates; 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, or provides it to another person for purposes of
10 commercial solicitation, commits an unfair or deceptive act or
11 practice or unfair method of competition in violation of part
12 II of this chapter, and is subject to the penalties and
13 remedies provided for such violation, in addition to remedies
14 otherwise available for such conduct.

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

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

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

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

15 501.166 Selling personal customer information.--

16 (1) Unless mandated by the Florida Public Service
17 Commission, any person organized or incorporated under the
18 laws of Florida who files for bankruptcy or who is insolvent,
19 including any successor, assignee, trustee, receiver, or
20 representative of such person, inclusive of those appointed by
21 any court, shall not sell or otherwise transfer personal
22 customer information to a third party that is protected from
23 disclosure by contract or published privacy policy, unless the
24 person obtains the customer's affirmative consent to waive
25 such privacy policy or contract.

26 (2) A person who violates or fails to comply with
27 subsection (1) commits an unfair or deceptive act or practice
28 or unfair method of competition in violation of part II of
29 this chapter and is subject to the penalties and remedies
30 provided for such violation, in addition to remedies otherwise
31 available for such conduct.

1 Section 5. A person who violates or fails to comply
2 with any provision of section 817.568, Florida Statutes,
3 commits an unfair or deceptive act or practice or unfair
4 method of competition in violation of part II of chapter 501,
5 Florida Statutes, and is subject to the penalties and remedies
6 provided for such violation, in addition to remedies otherwise
7 available for such conduct.

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

10 501.203 Definitions.--As used in this chapter, unless
11 the context otherwise requires, the term:

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

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

17 (b) The standards of unfairness and deception set
18 forth and interpreted by the Federal Trade Commission or the
19 federal courts;

20 (c) Any law, statute, rule, regulation, or ordinance
21 which proscribes unfair methods of competition, or unfair,
22 deceptive, or unconscionable acts or practices.

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

25 501.204 Unlawful acts and practices.--

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

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Section 8. This act shall take effect July 1, 2003.