

HB 1191

2014

1 A bill to be entitled

2 An act relating to telephone solicitation; reordering
3 and amending s. 501.059, F.S.; redefining the term
4 "telephonic sales call"; prohibiting a telephone
5 solicitor from transmitting certain text messages to a
6 consumer if the consumer is on the "no sales
7 solicitation calls" list maintained by the Department
8 of Agriculture and Consumer Services or if the
9 consumer has previously communicated such a request to
10 the telephone solicitor; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (1) of section 501.059, Florida
15 Statutes, is reordered and amended, and subsection (5) of that
16 section is amended, to read:

17 501.059 Telephone solicitation.—

18 (1) As used in this section, the term:

19 (g)(a) "Telephonic sales call" means a telephone call or
20 text message ~~call made by a telephone solicitor~~ to a consumer,
21 for the purpose of soliciting a sale of any consumer goods or
22 services, ~~or for the purpose of~~ soliciting an extension of
23 credit for consumer goods or services, ~~or for the purpose of~~
24 obtaining information that will or may be used for the direct
25 solicitation of a sale of consumer goods or services or an
26 extension of credit for such purposes.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 (b) "Consumer goods or services" means ~~any~~ real property
28 or ~~any~~ tangible or intangible personal property that ~~which~~ is
29 normally used for personal, family, or household purposes,
30 including, but not limited to ~~without limitation~~, any such
31 property intended to be attached to or installed in any real
32 property without regard to whether it is so attached or
33 installed, as well as cemetery lots and timeshare estates, and
34 any services related to such property.

35 (h) ~~(e)~~ "Unsolicited telephonic sales call" means a
36 telephonic sales call other than a call made:

37 1. In response to an express request of the person called;

38 2. Primarily in connection with an existing debt or
39 contract, if payment or performance of such debt or contract
40 ~~which~~ has not been completed at the time of such call;

41 3. To a ~~any~~ person with whom the telephone solicitor has a
42 prior or existing business relationship; or

43 4. By a newspaper publisher or his or her agent or
44 employee in connection with his or her business.

45 (f) ~~(d)~~ "Telephone solicitor" means a ~~any~~ natural person,
46 firm, organization, partnership, association, or corporation, or
47 a subsidiary or affiliate thereof, doing business in this state,
48 who makes or causes to be made a telephonic sales call,
49 including, but not limited to, calls made by use of automated
50 dialing or recorded message devices.

51 (a) ~~(e)~~ "Consumer" means an actual or prospective
52 purchaser, lessee, or recipient of consumer goods or services.

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53 (e)~~(f)~~ "Merchant" means a person who, directly or
54 indirectly, offers or makes available to consumers any consumer
55 goods or services.

56 (d)~~(g)~~ "Doing business in this state" means ~~refers to~~
57 businesses that ~~who~~ conduct telephonic sales calls from a
58 location in Florida or from other states or nations to consumers
59 located in Florida.

60 (c)~~(h)~~ "Department" means the Department of Agriculture
61 and Consumer Services.

62 (5) A telephone solicitor may not initiate an outbound
63 telephone call or text message to a consumer who has previously
64 communicated to the telephone solicitor that he or she does not
65 wish to receive an outbound telephone call or text message:

66 (a) Made by or on behalf of the seller whose goods or
67 services are being offered; or

68 (b) Made on behalf of a charitable organization for which
69 a charitable contribution is being solicited.

70 Section 2. This act shall take effect July 1, 2014.