

**By** the Committees on Appropriations; and Agriculture; and  
Senators Clemens and Sobel

576-02568A-14

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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; making an appropriation;  
11          providing an effective date.

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

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

18           501.059 Telephone solicitation.—

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

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

28           (b) "Consumer goods or services" means ~~any~~ real property or  
29 ~~any~~ tangible or intangible personal property that ~~which~~ is

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30 normally used for personal, family, or household purposes,  
31 including, but not limited to ~~without limitation~~, any such  
32 property intended to be attached to or installed in any real  
33 property without regard to whether it is so attached or  
34 installed, as well as cemetery lots and timeshare estates, and  
35 any services related to such property.

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

- 38 1. In response to an express request of the person called;
- 39 2. Primarily in connection with an existing debt or  
40 contract, if payment or performance of such debt or contract  
41 ~~which~~ has not been completed at the time of such call;
- 42 3. To a ~~any~~ person with whom the telephone solicitor has a  
43 prior or existing business relationship; or
- 44 4. By a newspaper publisher or his or her agent or employee  
45 in connection with his or her business.

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

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

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

57 (d) ~~(g)~~ "Doing business in this state" means ~~refers to~~  
58 businesses that ~~who~~ conduct telephonic sales calls from a

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59 location in Florida or from other states or nations to consumers  
60 located in Florida.

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

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

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

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

71 Section 2. For the 2014-2015 fiscal year, there is  
72 appropriated to the Department of Agriculture and Consumer  
73 Services, the sums of \$152,175 in recurring funds and \$16,103 in  
74 nonrecurring funds from the General Inspection Trust Fund, and  
75 three full-time equivalent positions with associated salary rate  
76 of 87,262 are authorized for the purpose of implementing this  
77 act.

78 Section 3. This act shall take effect July 1, 2014.