

1 A bill to be entitled
2 An act relating to telephone solicitation; amending s.
3 501.059, F.S.; revising the definition of the term
4 "telephonic sales call" to include voicemail
5 transmissions; defining the term "voicemail
6 transmission"; prohibiting the transmission of
7 voicemails to specified persons who communicate to a
8 telephone solicitor that they would not like to
9 receive certain voicemail solicitations or requests
10 for donations; requiring that if a telephone number is
11 available through a caller identification system, that
12 telephone number must be capable of receiving calls
13 and must connect the original call recipient to the
14 solicitor; revising penalties; providing an effective
15 date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Paragraph (g) of subsection (1) of section
20 501.059, Florida Statutes, is amended, a new paragraph (i) is
21 added to that subsection, and subsection (5), paragraph (c) of
22 subsection (8), and subsection (9) of that section are amended,
23 to read:

24 501.059 Telephone solicitation.—

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

26 (g) "Telephonic sales call" means a telephone call, ~~or~~
 27 text message, or voicemail transmission to a consumer for the
 28 purpose of soliciting a sale of any consumer goods or services,
 29 soliciting an extension of credit for consumer goods or
 30 services, or obtaining information that will or may be used for
 31 the direct solicitation of a sale of consumer goods or services
 32 or an extension of credit for such purposes.

33 (i) "Voicemail transmission" means technologies that
 34 deliver a voice message directly to a voicemail application,
 35 service, or device.

36 (5) A telephone solicitor or other person may not initiate
 37 an outbound telephone call, ~~or~~ text message, or voicemail
 38 transmission to a consumer or donor or potential donor who has
 39 previously communicated to the telephone solicitor or other
 40 person that he or she does not wish to receive an outbound
 41 telephone call, ~~or~~ text message, or voicemail transmission:

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

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

46 (8)

47 (c) It shall be unlawful for any person who makes a
 48 telephonic sales call or causes a telephonic sales call to be
 49 made to fail to transmit or cause not to be transmitted the
 50 telephone number and, when made available by the telephone

51 | solicitor's carrier, the name of the telephone solicitor to any
52 | caller identification service in use by a recipient of a
53 | telephonic sales call. However, it shall not be a violation to
54 | substitute, for the name and telephone number used in or billed
55 | for making the call, the name of the seller on behalf of which a
56 | telephonic sales call is placed and the seller's customer
57 | service telephone number, which is answered during regular
58 | business hours. If a telephone number is made available through
59 | a caller identification service as a result of a telephone sales
60 | call, that telephone number must be capable of receiving phone
61 | calls and must connect the original call recipient, upon calling
62 | such number, to the telephone solicitor or to the seller on
63 | behalf of which a telephonic sales call was placed. For purposes
64 | of this section, the term "caller identification service" means
65 | a service that allows a telephone subscriber to have the
66 | telephone number and, where available, the name of the calling
67 | party transmitted contemporaneously with the telephone call and
68 | displayed on a device in or connected to the subscriber's
69 | telephone.

70 | (9) (a) The department shall investigate any complaints
71 | received concerning violations of this section. If, after
72 | investigating a complaint, the department finds that there has
73 | been a violation of this section, the department or the
74 | Department of Legal Affairs may bring an action to impose a
75 | civil penalty and to seek other relief, including injunctive

76 relief, as the court deems appropriate against the telephone
77 solicitor. The civil penalty shall be in the Class IV ~~III~~
78 category pursuant to s. 570.971 for each violation and shall be
79 deposited in the General Inspection Trust Fund if the action or
80 proceeding was brought by the department, or the Legal Affairs
81 Revolving Trust Fund if the action or proceeding was brought by
82 the Department of Legal Affairs. This civil penalty may be
83 recovered in any action brought under this part by the
84 department, or the department may terminate any investigation or
85 action upon agreement by the person to pay a stipulated civil
86 penalty. The department or the court may waive any civil penalty
87 if the person has previously made full restitution or
88 reimbursement or has paid actual damages to the consumers who
89 have been injured by the violation.

90 (b) The department may, as an alternative to the civil
91 penalties provided in paragraph (a), impose an administrative
92 fine in the Class III ~~±~~ category pursuant to s. 570.971 for each
93 act or omission that constitutes a violation of this section. An
94 administrative proceeding that could result in the entry of an
95 order imposing an administrative penalty must be conducted
96 pursuant to chapter 120.

97 Section 2. This act shall take effect July 1, 2018.