

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 a solicitor to ensure that if  
 11          a telephone number is available through a caller  
 12          identification system, that telephone number must be  
 13          capable of receiving calls and must connect the  
 14          original call recipient to the solicitor; revising  
 15          penalties; providing an effective 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, business, or donor or potential  
 39 donor who has previously communicated to the telephone solicitor  
 40 or other person that he or she does not wish to receive an  
 41 outbound telephone call, ~~or~~ text message, or voicemail  
 42 transmission:

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

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

47 (8)

48 (c) It shall be unlawful for any person who makes a  
 49 telephonic sales call or causes a telephonic sales call to be  
 50 made to fail to transmit or cause not to be transmitted the

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

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

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

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

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