

By the Committee on Commerce and Tourism; and Senator Young

577-01302-18

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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.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
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~~ or text  
27       message, or voicemail transmission to a consumer for the purpose  
28       of soliciting a sale of any consumer goods or services,  
29       soliciting an extension of credit for consumer goods or

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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 a  
45 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

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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

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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.