

1 A bill to be entitled
 2 An act relating to telephone solicitation; amending s.
 3 501.059, F.S.; prohibiting certain telephonic sales
 4 calls without the prior express written consent of the
 5 called party; providing definitions; providing
 6 requirements for written consent agreements; providing
 7 that a called party may revoke express written
 8 consent; providing a rebuttable presumption for
 9 telephonic sales calls made to specified area codes;
 10 removing the requirement that certain telephone
 11 numbers be excluded from calls made by automated
 12 telephone dialing systems with live messages;
 13 providing construction; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Subsection (8) of section 501.059, Florida
 18 Statutes, is amended to read:

19 501.059 Telephone solicitation.—

20 (8) (a) A ~~No~~ person may not ~~shall~~ make or knowingly allow a
 21 telephonic sales call to be made if such call involves an
 22 automated system for the selection or dialing of telephone
 23 numbers or the playing of a recorded message when a connection
 24 is completed to a number called without the prior express
 25 written consent of the called party.

26 (b) As used in this subsection, the term:

27 1. "Called party" means a person who is the regular user
28 of the telephone number that is delivered a telephonic sales
29 call.

30 2. "Express written consent" means a written consent
31 agreement bearing the handwritten, electronic, or digital
32 signature of a called party that states the telephone number to
33 which the called party authorizes a telephonic sales call to be
34 delivered and clearly authorizes a person to make or knowingly
35 allow a telephonic sales call to be made using an automated
36 system for selecting or dialing telephone numbers, playing a
37 recorded message when a connection is completed to a telephone
38 number called, transmitting a text message, or transmitting a
39 prerecorded voicemail.

40 (c) The express written consent must include a clear and
41 conspicuous disclosure informing the called party that:

42 1. By executing the agreement, the called party authorizes
43 a person to make or knowingly allow a telephonic sales call to
44 be made using an automated system for selecting or dialing
45 telephone numbers, playing a recorded message when a connection
46 is completed to a telephone number called, transmitting a text
47 message, or transmitting a prerecorded voicemail.

48 2. The called party is not required to sign the agreement
49 or consent to enter into such an agreement as a condition of
50 purchasing any property, goods, or services.

51 (d) A called party may revoke express written consent
52 through any reasonable means clearly expressing a desire to not
53 receive further calls, recorded messages, text messages, or
54 prerecorded voicemails.

55 (e) There is a rebuttable presumption that any telephonic
56 sales call made to a Florida area code is made to a resident of
57 this state or to a person who is in this state at the time of
58 the telephonic sales call.

59 (f) This subsection does not prohibit ~~Nothing herein~~
60 ~~prohibits~~ the use of an automated telephone dialing system ~~with~~
61 ~~live messages~~ if the calls are made or messages are given solely
62 in response to calls originally initiated by the persons to whom
63 the automatic calls or live messages are directed. This
64 paragraph does not authorize repeated calls in response to a
65 call made by a called party to the person who originally
66 initiated a telephonic sales call to the called party.

67 (g) This subsection does not prohibit the use of an
68 automated telephone dialing system ~~or if the telephone numbers~~
69 ~~selected for automatic dialing have been screened to exclude any~~
70 ~~telephone subscriber who is included on the department's then-~~
71 ~~current "no sales solicitation calls" listing or any unlisted~~
72 ~~telephone number, or if the calls made concern goods or services~~
73 that have been previously ordered or purchased by the called
74 party and concern the order, purchase, or delivery of, or
75 payment for, such goods or services. This paragraph does not

76 | authorize telephonic sales calls to a called party solely
77 | because the called party has previously conducted business with
78 | the person initiating the telephonic sales call.

79 | (h)~~(e)~~ It is ~~shall be~~ unlawful for any person who makes a
80 | telephonic sales call or causes a telephonic sales call to be
81 | made to fail to transmit or cause not to be transmitted the
82 | originating telephone number and, when made available by the
83 | telephone solicitor's carrier, the name of the telephone
84 | solicitor to any caller identification service in use by a
85 | recipient of a telephonic sales call. However, it is ~~shall~~ not
86 | ~~be~~ a violation to substitute, for the name and telephone number
87 | used in or billed for making the call, the name of the seller on
88 | behalf of which a telephonic sales call is placed and the
89 | seller's customer service telephone number, which is answered
90 | during regular business hours. If a telephone number is made
91 | available through a caller identification service as a result of
92 | a telephonic sales call, the solicitor must ensure that
93 | telephone number is capable of receiving telephone calls and
94 | must connect the original call recipient, upon calling such
95 | number, to the telephone solicitor or to the seller on behalf of
96 | which a telephonic sales call was placed. For purposes of this
97 | section, the term "caller identification service" means a
98 | service that allows a telephone subscriber to have the telephone
99 | number and, where available, the name of the calling party
100 | transmitted contemporaneously with the telephone call and

101 displayed on a device in or connected to the subscriber's
102 telephone.

103 (i)~~(d)~~ It is ~~shall be~~ unlawful for any person who makes a
104 telephonic sales call or causes a telephonic sales call to be
105 made to intentionally alter the voice of the caller in an
106 attempt to disguise or conceal the identity of the caller in
107 order to defraud, confuse, or financially or otherwise injure
108 the recipient of a telephonic sales call or in order to obtain
109 personal information from the recipient of a telephonic sales
110 call which may be used in a fraudulent or unlawful manner.

111 Section 2. This act shall take effect July 1, 2021.