

By Senator Yarborough

4-00182B-23

20231308\_\_

1                   A bill to be entitled  
2       An act relating to telephone solicitation; amending s.  
3       501.059, F.S.; providing and revising definitions;  
4       prohibiting certain telephonic sales calls; providing  
5       retroactive applicability; providing an effective  
6       date.

7  
8   Be It Enacted by the Legislature of the State of Florida:  
9

10       Section 1. Present paragraphs (a) through (l) of subsection  
11       (1) of section 501.059, Florida Statutes, are redesignated as  
12       paragraphs (b) through (m), respectively, a new paragraph (a) is  
13       added to that subsection, and present paragraphs (g) and (h) of  
14       that subsection and paragraph (a) of subsection (8) of that  
15       section are amended, to read:

16       501.059 Telephone solicitation.—

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

18       (a) "Automatic telephone dialing system" means equipment  
19       using a random or sequential number generator that:

20       1. Stores or produces telephone numbers; and

21       2. Dials the stored or produced telephone numbers.

22       (h) ~~(g)~~ "Prior express written consent" means a written  
23       agreement that:

24       1. Bears the signature of the called party;

25       2. Clearly authorizes the person making or allowing the  
26       placement of a telephonic sales call by telephone call, text  
27       message, or voicemail transmission to deliver or cause to be  
28       delivered to the called party a telephonic sales call using an  
29       automatic telephone dialing ~~automated~~ system for the selection

4-00182B-23

20231308\_\_

30 and ~~or~~ dialing of telephone numbers, the playing of a recorded  
31 message when a connection is completed to a number called, or  
32 the transmission of a prerecorded voicemail;

33 3. Includes the telephone number to which the called party  
34 ~~signatory~~ authorizes a telephonic sales call to be delivered;  
35 and

36 4. Includes a clear and conspicuous disclosure informing  
37 the called party that:

38 a. By executing the agreement, the called party authorizes  
39 the person making or allowing ~~the placement of~~ a telephonic  
40 sales call to be made by telephone call, text message, or  
41 voicemail transmission to deliver or cause to be delivered a  
42 ~~telephonic sales call~~ to the called party a telephonic sales  
43 call using an automatic telephone dialing ~~automated~~ system for  
44 the selection and ~~or~~ dialing of telephone numbers, if  
45 applicable, ~~or~~ the playing of a recorded message when a  
46 connection is completed to a number called, or the transmission  
47 of a prerecorded voicemail; and

48 b. He or she is not required to directly or indirectly sign  
49 the written agreement or to agree to enter into such an  
50 agreement as a condition of purchasing any property, goods, or  
51 services.

52 (i) ~~(h)~~ "Signature" includes:

53 1. An electronic or digital signature, if ~~to~~ the extent  
54 ~~that such~~ form of signature is recognized as a valid signature  
55 under applicable federal law or state contract law; and

56 2. An act that demonstrates express consent, including, but  
57 not limited to, checking a box indicating consent or responding  
58 affirmatively to receiving text messages, to an advertising

4-00182B-23

20231308\_\_

59 campaign, or to an e-mail solicitation.

60 (8) (a) A person may not make or knowingly allow to be made  
61 an unsolicited a telephonic sales call using ~~to be made if such~~  
62 ~~call involves~~ an automatic telephone dialing ~~automated~~ system  
63 for the selection and ~~or~~ dialing of telephone numbers or the  
64 playing of a recorded message when a connection is completed to  
65 a number called without the prior express written consent of the  
66 called party.

67 Section 2. The amendments made by this act are remedial in  
68 nature and apply retroactively to July 1, 2021, and to any  
69 proceeding pending on or after July 1, 2021.

70 Section 3. This act shall take effect July 1, 2023.