

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Fabricio offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

6 Section 1. Paragraphs (g) and (h) of subsection (1) and
 7 paragraph (a) of subsection (8) of section 501.059, Florida
 8 Statutes, are amended, paragraph (e) is added to subsection (8),
 9 and paragraph (c) is added to subsection (10) of that section,
 10 to read:

501.059 Telephone solicitation.—

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

(g) "Prior express written consent" means a written
 14 agreement that:

1. Bears the signature of the called party;

2. Clearly authorizes the person making or allowing the

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17 placement of a telephonic sales call by telephone call, text
18 message, or voicemail transmission to deliver or cause to be
19 delivered to the called party a telephonic sales call using an
20 automated system for the selection and ~~or~~ dialing of telephone
21 numbers, the playing of a recorded message when a connection is
22 completed to a number called, or the transmission of a
23 prerecorded voicemail;

24 3. Includes the telephone number to which the called party
25 ~~signatory~~ authorizes a telephonic sales call to be delivered;
26 and

27 4. Includes a clear and conspicuous disclosure informing
28 the called party that:

29 a. By executing the agreement, the called party authorizes
30 the person making or allowing ~~the placement of~~ a telephonic
31 sales call to be made by telephone call, text message, or
32 voicemail transmission to deliver or cause to be delivered ~~a~~
33 ~~telephonic sales call~~ to the called party a telephonic sales
34 call using an automated system for the selection and ~~or~~ dialing
35 of telephone numbers, if applicable, ~~or~~ the playing of a
36 recorded message when a connection is completed to a number
37 called, or the transmission of a prerecorded voicemail; and

38 b. He or she is not required to directly or indirectly
39 sign the written agreement or to agree to enter into such an
40 agreement as a condition of purchasing any property, goods, or
41 services.

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42 (h) "Signature" includes:

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

46 2. An act that demonstrates express consent, including,
47 but not limited to, checking a box indicating consent or
48 responding affirmatively to receiving text messages, to an
49 advertising campaign, or to an e-mail solicitation.

50 (8)(a) A person may not make or knowingly allow to be made
51 an unsolicited a telephonic sales call ~~to be made~~ if such call
52 involves an automated system for the selection and ~~or~~ dialing of
53 telephone numbers or the playing of a recorded message when a
54 connection is completed to a number called without the prior
55 express written consent of the called party.

56 (e) It is not a violation of this section to initiate a
57 telephone call or text message using an automatic telephone
58 dialing system to deliver a message without the prior express
59 written consent of the called party if the telephone call or
60 text message is initiated for emergency purposes or health
61 purposes. As used in this paragraph, the term:

62 1. "Emergency purposes" means a telephone call or text
63 message made that is necessary in any situation affecting the
64 safety and health of consumers.

65 2. "Health purposes" means a telephone call or text
66 message that delivers a message regarding healthcare from an

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67 entity or a business associate of the entity covered under the
68 Health Insurance Portability and Accountability Act which
69 concerns:

70 a. A product or service that has a healthcare treatment
71 purpose;

72 b. A patient with whom the entity or business associate of
73 the entity has an established healthcare relationship; or

74 c. The individual healthcare needs of a patient.

75 (10)

76 (c) Before the commencement of any action for damages
77 under this section for text message solicitations, the called
78 party must notify the telephone solicitor that the called party
79 does not wish to receive text messages from the telephone
80 solicitor by replying "STOP" to the number from which the called
81 party received text messages from the telephone solicitor.

82 Within 30 days after receipt of such notice, the telephone
83 solicitor shall cease sending text message solicitations to the
84 called party and may not send text messages to the called party
85 thereafter, except that the telephone solicitor may send the
86 called party a text message to confirm receipt of the notice.

87 The called party may bring an action under this section only if
88 the called party does not consent to receive text messages from
89 the telephone solicitor and the telephone solicitor continues to
90 send text messages to the called party 30 days after the called
91 party provided notice to the telephone solicitor to cease such

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92 text messages.

93 Section 2. The amendments made by this act to s. 501.059,
94 Florida Statutes, apply to any suit filed on or after the
95 effective date of this act and to any putative class action not
96 certified on or before the effective date of this act.

97 Section 3. This act shall take effect upon becoming a law.

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T I T L E A M E N D M E N T

101

Remove everything before the enacting clause and insert:

102

A bill to be entitled

103

An act relating to telephone solicitation; amending s.

104

501.059, F.S.; revising definitions; prohibiting

105

certain telephonic sales calls; providing exceptions;

106

providing conditions under which civil actions may be

107

brought for text message solicitations; providing

108

applicability; providing an effective date.