

**CS FOR SENATE BILL NO. 40(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/1/11

Referred: Judiciary

Sponsor(s): SENATOR MEYER

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act prohibiting certain automated telephone solicitations."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 45.50.475(a) is amended to read:

4 (a) A person is in violation of AS 45.50.471(b)(41) if the person

5 (1) [REPEALED

6 (2)] engages in the telephone solicitation of a customer whose  
7 telephone number has been registered with the national do not call registry for the  
8 minimum amount of time required by the national do not call registry before the date  
9 the call is made;

10 (2) [(3)] engages in the telephone solicitation of a customer who has  
11 previously communicated to the telephone solicitor, or to the business enterprise or  
12 charitable organization for which the person is calling, the customer's desire not to  
13 receive telephone solicitations to that number;

14 (3) [OR (4)] originates a telephone call using an automated or recorded  
15 message as a telephonic advertisement or a telephone solicitation; or

1                   **(4) uses an automated telephone system, device, or facsimile**  
 2                   **machine for the selection and dialing of telephone numbers and playing of**  
 3                   **recorded messages if a message is completed to the dialed number.**

4 \* **Sec. 2.** AS 45.50.475(d) is amended to read:

5                   (d) A person who employs individuals to engage in telephone solicitations is  
 6                   not liable for a violation of **(a)(1) and (2)** [(a)(1) - (3)] of this section if the person  
 7                   establishes that

8                               (1) the person has adopted and implemented written procedures and  
 9                               policies to comply with **(a)(1) and (2)** [(a)(1) - (3)] of this section, including  
 10                              corrective actions if appropriate;

11                             (2) the person has trained its personnel in the procedures and policies  
 12                             established under (1) of this subsection;

13                             (3) the call that violated **(a)(1) and (2)** [(a)(1) - (3)] of this section was  
 14                             made contrary to the procedures and policies established by the person; and

15                             (4) the call that violated **(a)(1) and (2)** [(a)(1) - (3)] of this section was  
 16                             made as a result of a good faith error.

17 \* **Sec. 3.** AS 45.50.475(e) is amended to read:

18                   (e) An individual who solicits a telephone customer in violation of **(a)(1) and**  
 19                   **(2)** [(a)(1) - (3)] of this section is not liable for the violation if the individual  
 20                   establishes that the individual did not intend to make the call in violation of this  
 21                   section and did not recklessly disregard information or policies and procedures that  
 22                   would have avoided the improper call.

23 \* **Sec. 4.** AS 45.50.475 is amended by adding new subsections to read:

24                   (h) A person is not liable for a violation of (a)(4) of this section if the person  
 25                   uses

26                               (1) an automated telephone system, device, or facsimile machine for  
 27                               the purposes of

28                                       (A) informing purchasers of the receipt, availability for  
 29                                       delivery, delay in delivery, or other pertinent information on the status of any  
 30                                       purchased goods or services;

31                                       (B) responding to an inquiry initiated by the person receiving

- 1 the automated communication;
- 2 (C) informing the recipient of a matter involving public safety;
- 3 (D) delivering requested information to a person as part of a
- 4 membership agreement; or
- 5 (E) informing a customer of pertinent information based on a
- 6 relationship between a privately or publicly owned utility and a customer; or
- 7 (2) an automated telephone system or device if the person obtains the
- 8 permission of the called party by a live operator before the recorded message is
- 9 delivered.
- 10 (i) In addition to any other penalties provided for under this chapter, a person
- 11 violating (a)(4) of this section is guilty of a violation and, upon conviction, is
- 12 punishable by a fine of not more than \$500 for each unlawful act or practice.