

TELEPHONE SOLICITATION MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon Hawkins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill includes text messages in the regulation of telephone solicitation.

Highlighted Provisions:

This bill:

▶ includes text messages in the types of communications regulated as a part of the regulation of telephone solicitation; and

▶ defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-25a-102, as last amended by Laws of Utah 2021, Chapter 289

13-25a-103, as last amended by Laws of Utah 2004, Chapters 90 and 263

13-25a-108, as last amended by Laws of Utah 2020, Chapter 79

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-25a-102** is amended to read:

13-25a-102. Definitions.



28 As used in this chapter:

29 (1) "Advertisement" means material offering for sale, or advertising the availability or
30 quality of, any property, goods, or services.

31 (2) (a) "Automated telephone dialing system" means equipment used to:

32 (i) store or produce telephone numbers;

33 (ii) call a stored or produced number; and

34 (iii) connect the number called with a recorded message or artificial voice.

35 (b) "Automated telephone dialing system" does not include equipment used with a
36 burglar alarm system, voice messaging system, fire alarm system, or other system used in an
37 emergency involving the immediate health or safety of a person.

38 (3) "Division" means the Division of Consumer Protection in the Department of
39 Commerce.

40 (4) (a) "Established business relationship" means a relationship that:

41 (i) is based on inquiry, application, purchase, or transaction regarding products or
42 services offered;

43 (ii) is formed by a voluntary two-way communication between a person making a
44 telephone solicitation and a person to whom a telephone solicitation is made; and

45 (iii) has not been terminated by:

46 (A) an act by either party; or

47 (B) the passage of 18 months since the most recent inquiry, application, purchase,
48 transaction, or voluntary two-way communication.

49 (b) "Established business relationship" includes a relationship with an affiliate as
50 defined in Section [16-10a-102](#).

51 (5) "Facsimile machine" means equipment used for:

52 (a) scanning or encoding text or images for conversion into electronic signals for
53 transmission; or

54 (b) receiving electronic signals and reproducing them as a duplicate of the original text
55 or image.

56 (6) "Negative response" means a statement from a party stating the party does not wish
57 to listen to the sales presentation or participate in the solicitation presented in the telephone
58 [call] communication.

59 (7) "On-call emergency provider" means an individual who is required by an employer
60 to be on call to respond to a medical emergency.

61 (8) "Telephone solicitation" means the initiation of a telephone [~~call or message~~]
62 communication for a commercial purpose or to seek a financial donation, including calls:

63 (a) encouraging the purchase or rental of, or investment in, property, goods, or services,
64 regardless of whether the transaction involves a nonprofit organization;

65 (b) soliciting a sale of or extension of credit for property or services to the person
66 called;

67 (c) soliciting information that will be used for:

68 (i) the direct solicitation of a sale of property or services to the person called; or

69 (ii) an extension of credit to the person called for a sale of property or services; or

70 (d) soliciting a charitable donation involving the exchange of any premium, prize, gift,
71 ticket, subscription, or other benefit in connection with any appeal made for a charitable
72 purpose.

73 (9) "Telephone solicitor" means any natural person, firm, organization, partnership,
74 association, or corporation who makes or causes to be made an unsolicited telephone [~~call~~]
75 communication, including calls made by use of an automated telephone dialing system.

76 (10) "Unsolicited telephone [~~call~~] communication" means a telephone call or text
77 message for a commercial purpose or to seek a financial donation other than a call or text
78 message made:

79 (a) in response to an express request of the person called or messaged;

80 (b) primarily in connection with an existing debt or contract, payment or performance
81 of which has not been completed at the time of the call or text message;

82 (c) to any person with whom the telephone solicitor has an established business
83 relationship; or

84 (d) as required by law for a medical purpose.

85 Section 2. Section **13-25a-103** is amended to read:

86 **13-25a-103. Prohibited conduct for telephone solicitations -- Exceptions.**

87 (1) Except as provided in Subsection (2), a person may not operate or authorize the
88 operation of an automated telephone dialing system to make a telephone solicitation.

89 (2) A person may operate an automated telephone dialing system if a call is made:

90 (a) with the prior express consent of the person who is called agreeing to receive a
91 telephone solicitation from a specific solicitor; or

92 (b) to a person with whom the solicitor has an established business relationship.

93 (3) A person may not make a telephone solicitation to a residential telephone without
94 prior express consent during any of the following times:

95 (a) before 8 a.m. or after 9 p.m. local time;

96 (b) on a Sunday; or

97 (c) on a legal holiday.

98 (4) A person may not make or authorize a telephone solicitation in violation of Title 47
99 U.S.C. 227.

100 (5) Any telephone solicitor who makes an unsolicited telephone ~~call~~ communication
101 to a telephone number shall:

102 (a) identify the telephone solicitor;

103 (b) identify the business on whose behalf the telephone solicitor is soliciting;

104 (c) identify the purpose of the call promptly upon making contact by telephone with the
105 person who is the object of the telephone solicitation;

106 (d) discontinue the solicitation if the person being solicited gives a negative response at
107 any time during the telephone call; and

108 (e) hang up the phone, or in the case of an automated telephone dialing system
109 operator, disconnect the automated telephone dialing system from the telephone line within 25
110 seconds of the termination of the call by the person being called.

111 (6) A telephone solicitor may not withhold the display of the telephone solicitor's
112 telephone number from a caller identification service when that number is being used for
113 telemarketing purposes and when the telephone solicitor's service or equipment is capable of
114 allowing the display of the number.

115 Section 3. Section **13-25a-108** is amended to read:

116 **13-25a-108. Prohibited telephone solicitations.**

117 (1) A person may not make or cause to be made an unsolicited telephone ~~call~~
118 communication to a person:

119 (a) located in the state; and

120 (b) (i) at a Utah telephone number contained in the national "do-not-call" registry

121 established and maintained by the Federal Trade Commission under 16 C.F.R.

122 310.4(b)(1)(iii)(B); or

123 (ii) at a non-Utah telephone number contained in the national "do-not-call" registry

124 established and maintained by the Federal Trade Commission under 16 C.F.R.

125 310.4(b)(1)(iii)(B), if the person making the call or causing the call to be made knows or

126 reasonably should know that the person receiving the call is in Utah.

127 (2) Each unsolicited telephone [~~call~~] communication made in violation of this section

128 is a separate violation.