

TELEPHONE AND FACSIMILE SOLICITATION ACT

AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Telephone and Facsimile Solicitation Act.

Highlighted Provisions:

This bill:

- ▶ permits a court in a private action under the Telephone and Facsimile Solicitation Act to award a person treble the amount of the person’s pecuniary loss under certain circumstances; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-25a-107, as last amended by Laws of Utah 2003, Chapter 263

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

Section 1. Section **13-25a-107** is amended to read:

13-25a-107. Private action.



28 (1) In addition to any other remedies, a person may bring an action in any state court of
29 competent jurisdiction if:

30 (a) (i) the person has received two or more telephone solicitations or facsimile
31 advertisements from the same individual or entity that:

32 (A) violates this chapter; or

33 (B) violates Title 47 U.S.C. 227; and

34 (ii) the person, following the first telephone solicitation or facsimile advertisement,
35 notified the sender of the person's objection to receiving the telephone solicitation or facsimile
36 advertisement; or

37 (b) the person has received one telephone solicitation or facsimile advertisement in
38 violation of:

39 (i) Subsection 13-25a-103(1);

40 (ii) Subsection 13-25a-103(3);

41 (iii) Subsection 13-25a-103(5);

42 (iv) Subsection 13-25a-103(6); or

43 (v) Subsection 13-25a-104(1).

44 (2) In a suit brought under Subsection (1)~~[-]~~:

45 (a) a person may:

46 ~~[(a)]~~ (i) recover the greater of \$500 or the amount of the pecuniary loss, if any;

47 ~~[(b)]~~ (ii) recover court costs and reasonable attorneys' fees as determined by the court;

48 and

49 ~~[(c)]~~ (iii) seek to enjoin any conduct in violation of this chapter~~[-]~~; and

50 (b) the court may award a person treble the amount of the person's pecuniary loss, if the
51 court finds that a violation was knowing and willful.