

# FINAL BILL REPORT

## ESHB 1051

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**C 103 L 23**  
Synopsis as Enacted

**Brief Description:** Concerning robocalling and telephone scams.

**Sponsors:** House Committee on Consumer Protection & Business (originally sponsored by Representatives Leavitt, Walen, Simmons, Ryu, Goodman, Fitzgibbon, Pollet, Doglio, Orwall, Macri, Timmons, Wylie, Bronoske, Ramos, Thai and Kloba; by request of Attorney General).

**House Committee on Consumer Protection & Business**  
**Senate Committee on Law & Justice**  
**Senate Committee on Business, Financial Services, Gaming & Trade**

**Background:**

Telephone solicitation is primarily regulated by two statutes: the Telephone Solicitation Act of 1986 (TSA) and the Commercial Telephone Solicitation Regulation Act of 1989 (CTSRA). These acts contain both similar and distinct provisions. In addition, automatic dialing and commercial solicitation is regulated under telecommunications.

	<b>Telephone Solicitation Act</b>	<b>Commercial Telephone Solicitation Regulation Act</b>	<b>Automatic Dialing and Commercial Solicitation</b>
<b>Scope and Exceptions</b>	The TSA defines "telephone solicitation" as the unsolicited initiation of a telephone call by a commercial or nonprofit company or organization to a person and conversation for the purpose of encouraging	The CTSRA defines "commercial telephone solicitation" as: <ul style="list-style-type: none"><li>• an unsolicited telephone call to a person initiated by a salesperson and conversation for the purpose of inducing</li></ul>	An "automatic dialing and announcing device" is a device which automatically dials telephone numbers and plays a recorded message once a connection is made.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

	<p>the person to purchase property, goods, or services or soliciting donations of money, property, goods, or services.</p> <p>"Telephone solicitation" does not include</p> <ul style="list-style-type: none"> <li>• calls made in response to a request or inquiry by the called party;</li> <li>• calls made by a not-for-profit organization to its own list of bona fide or active members of the organization;</li> <li>• calls limited to polling or soliciting the expression of ideas, opinions, or votes; or</li> <li>• business-to-business contacts.</li> </ul> <p>The TSA does not cover calls from political parties.</p>	<p>the person to purchase or invest in property, goods, or services;</p> <ul style="list-style-type: none"> <li>• other communication with a person where: (1) a free gift, award, or prize is offered to a purchaser who has not previously purchased from the person initiating the communication; (2) a telephone call response is invited; and (3) the salesperson intends to complete a sale or enter into an agreement to purchase during the course of the telephone call; or</li> <li>• other communication with a person which misrepresents the price, quality, or availability of property, goods, or services and which invites a response by telephone or which is followed by a call to the person by a salesperson.</li> </ul> <p>"Commercial telephone solicitor" means any person who engages in commercial telephone</p>	<p>"Commercial solicitation" is the unsolicited initiation of a telephone conversation for the purpose of encouraging a person to purchase property, goods, or services.</p>
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		<p>solicitation, including service bureaus.</p> <p>However, many specific industries and activities are exempted by the CTSRA, such as isolated solicitations; calls by charities and collection agencies; and the sale of certain products, like cable television, fish, etc. One specific exemption is for people engaging in commercial telephone solicitation where less than 60 percent of such person's prior year's sales are as a result of the commercial telephone solicitation.</p>	
<b>Prohibition</b>	<p>There are time restrictions and regulations around identification requirements, and when a recipient of the solicitation must be removed from call lists, but there is no prohibition on telephone solicitations.</p>	<p>There are time restrictions and regulations around identification requirements, and when a recipient of the solicitation must be removed from call lists, but there is no prohibition on commercial telephone solicitations.</p>	<p>A person may not use an automatic dialing and announcing device for purposes of commercial solicitation intended to be received by telephone customers within Washington.</p>
<b>Fines and Civil Penalties</b>	<p>Violations of the call time restrictions or identification and opt-out, call termination, or list removal requirements are subject to a \$1,000 fine for each violation under</p>	<p>A civil penalty of \$500 to \$2,000 shall be imposed by the court for each violation.</p>	<p>Damages to the recipient of commercial solicitations made using an automatic dialing and announcing device are</p>

	the TSA.		presumed to be \$500.
<b>Private Civil Actions</b>	Individuals subject to repeated violations may bring a civil action to enjoin violations and recover damages, including at least \$100 per violation. A prevailing plaintiff is entitled to attorney's fees and costs.	A person who is injured by a violation may bring an action for recovery of actual damages, attorney's fees, and costs.  A violation is an unfair or deceptive act in trade or commerce for the purposes of the Consumer Protection Act.	A violation is a violation of the Consumer Protection Act.

**Summary:**

Automatic Dialing and Commercial Solicitation.

*Definitions.*

The definition of "automatic dialing and announcing device" is modified to mean a system which automatically dials telephone numbers and transmits a recorded or artificial voice message once a connection is made. A recorded or artificial message is transmitted even if the recorded or artificial message goes directly to a recipient's voicemail.

The definition of commercial solicitation is also modified to include wrongfully obtaining anything of value.

In addition, definitions for "assist in the transmission" and "terminating provider" are added.

*Prohibition.*

No person may assist in the transmission of a commercial solicitation using an automatic dialing and announcing device. In any action arising from a violation, there is an affirmative defense that a telecommunications provider both acted in compliance with federal law and implemented a reasonably effective plan to mitigate origination, initiation, or transmission of a commercial solicitation using an automatic dialing and announcing device.

*Private Civil Actions and Penalties.*

A commercial solicitation violation is considered a *per se* violation of the Consumer Protection Act (CPA), and a person injured by such violations may receive remedies under the CPA. In addition, the person may bring civil action to enjoin further violations and recover actual damages or \$1,000 per violation, whichever is greater.

Telephone Solicitation Act.

*Definitions.*

"Telephone solicitation" is modified to include wrongfully obtaining anything of value.

A definition of "telephone call" is added.

*Prohibition.*

No person may initiate, or cause to be initiated, a telephone solicitation to any telephone number on the federal do not call registry. It is also unlawful for a person to initiate, or cause to be initiated, a telephone solicitation that violates federal law prohibiting misleading or inaccurate caller identification information. The prohibitions apply to all telephone solicitation intended to be received by telephone customers within Washington.

*Exemptions.*

Calls made by a membership or labor organization to its own list of bona fide or active members of the organization are also exempt from telephone solicitation regulations.

*Private Civil Actions.*

A violation of the TSA is made a *per se* violation of the CPA. The court must award damages of at least \$1,000 per violation for persons aggrieved by repeated violations.

Commercial Telephone Solicitation Regulation Act.

*Definitions.*

"Commercial telephone solicitation" is modified to include wrongfully obtaining anything of value and references to salesperson are removed. In addition, the exemption for a person who had less than 60 percent of their prior year's sales made as a result of commercial telephone solicitation is removed, and such person is considered a commercial telephone solicitor.

Definitions for "telephone call" and "unsolicited" are added.

**Votes on Final Passage:**

House 96 0

Senate 48 0

**Effective:** July 23, 2023