



General Assembly

**Amendment**

February Session, 2014

LCO No. 3684

**\*SB0020903684SD0\***

Offered by:  
SEN. DOYLE, 9<sup>th</sup> Dist.

To: Subst. Senate Bill No. 209

File No. 191

Cal. No. 158

**"AN ACT PROHIBITING UNSOLICITED COMMERCIAL TEXT MESSAGES AND INCREASING PENALTIES FOR VIOLATIONS OF THE DO NOT CALL REGISTRY."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 42-288a of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2014*):

5 (a) As used in this section and section 2 of this act:

6 (1) "Commissioner" means the Commissioner of Consumer  
7 Protection;

8 (2) "Consumer" means any individual who is a resident of this state  
9 and a prospective recipient of consumer goods or services;

10 (3) "Consumer goods or services" means any article or service that is  
11 purchased, leased, exchanged or received primarily for personal,  
12 family or household purposes, and includes, but is not limited to,

13 stocks, bonds, mutual funds, annuities and other financial products;

14 (4) "Department" means the Department of Consumer Protection;

15 (5) "Doing business in this state" means conducting telephonic sales  
16 calls (A) from a location in this state, or (B) from a location outside of  
17 this state to consumers residing in this state;

18 (6) "Prior express written consent" has the meaning provided in 47  
19 CFR 64.1200, as amended from time to time;

20 [(6)] (7) "Marketing or sales solicitation" means the initiation of a  
21 telephone call or message, including, but not limited to, a text or media  
22 message, to encourage the purchase or rental of, or investment in,  
23 property, goods or services, that is transmitted to any consumer, but  
24 does not include a telephone call or message, including, but not  
25 limited to, a text or media message (A) to any consumer with [that]  
26 such consumer's prior express written [or verbal invitation or  
27 permission] consent, (B) by a tax-exempt nonprofit organization, or (C)  
28 to a consumer in response to a visit made by such consumer to an  
29 establishment selling, leasing or exchanging consumer goods or  
30 services at a fixed location;

31 [(7)] (8) "Telephonic sales call" means a telephone call made by a  
32 telephone solicitor, or a text or media message sent by or on behalf of a  
33 telephone solicitor, to a consumer for the purpose of (A) engaging in a  
34 marketing or sales solicitation, (B) soliciting an extension of credit for  
35 consumer goods or services, or (C) obtaining information that will or  
36 may be used for marketing or sales solicitation or exchange of or  
37 extension of credit for consumer goods or services;

38 [(8)] (9) "Telephone solicitor" means any individual, association,  
39 corporation, partnership, limited partnership, limited liability  
40 company or other business entity, or a subsidiary or affiliate thereof,  
41 doing business in this state that makes or causes to be made a  
42 telephonic sales call, including, but not limited to, sending or causing  
43 to be sent a text or media message to a consumer's mobile telephone or

44 mobile electronic device;

45 (10) "Text or media message" means a message that contains  
46 written, audio, video or photographic content and is sent electronically  
47 to a mobile telephone or mobile electronic device telephone number,  
48 but does not include electronic mail sent to an electronic mail address;

49 ~~[(9)]~~ (11) "Unsolicited telephonic sales call" means any telephonic  
50 sales call other than a telephonic sales call made: (A) [In response to an  
51 express written or verbal request] Pursuant to the prior express written  
52 consent of the consumer who is called or sent a text or media message;  
53 (B) primarily in connection with an existing debt or contract, payment  
54 or performance of which has not been completed at the time of the  
55 telephonic sales call; or (C) to an existing customer, unless such  
56 customer has stated to the telephone solicitor that such customer no  
57 longer wishes to receive the telephonic sales calls of such telephone  
58 solicitor; and

59 ~~[(10)]~~ (12) "Caller identification service or device" means any  
60 telephone service or device which permits a consumer to see the  
61 telephone number of incoming telephone calls or text or media  
62 messages.

63 (b) The department shall establish and maintain a "no sales  
64 solicitation calls" listing of consumers who do not wish to receive  
65 unsolicited telephonic sales calls. The department may contract with a  
66 private vendor to establish and maintain such listing, provided (1) the  
67 private vendor has maintained national "no sales solicitation calls"  
68 listings for more than two years, and (2) the contract requires the  
69 vendor to provide the "no sales solicitation calls" listing in a printed  
70 hard copy format and in any other format offered at a cost that does  
71 not exceed the production cost of the format offered. The department  
72 shall provide notice to consumers of the establishment of a "no sales  
73 solicitation calls" listing. Any consumer who wishes to be included on  
74 such listing shall notify the department by calling a toll-free number  
75 provided by the department, or in any other such manner and at such

76 times as the commissioner may prescribe. A consumer on such listing  
77 shall be deleted from such listing upon the consumer's written request.  
78 The department shall update such listing not less than quarterly and  
79 shall make such listing available to telephone solicitors and other  
80 persons upon request.

81 (c) No telephone solicitor may make or cause to be made any  
82 unsolicited telephonic sales call to any consumer (1) if the consumer's  
83 name and telephone number or numbers appear on the then current  
84 quarterly "no sales solicitation calls" listing made available by the  
85 department under subsection (b) of this section, unless (A) such call  
86 was made by a telephone solicitor that first began doing business in  
87 this state on or after January 1, 2000, (B) a period of less than one year  
88 has passed since such telephone solicitor first began doing business in  
89 this state, and (C) the consumer to whom such call was made had not  
90 on a previous occasion stated to such telephone solicitor that such  
91 consumer no longer wishes to receive the telephonic sales calls of such  
92 telephone solicitor, (2) for telephone calls, to be received between the  
93 hours of nine o'clock p.m. and nine o'clock a.m., local time, at the  
94 consumer's location or, for text or media messages, to be received on  
95 the consumer's mobile telephone or mobile electronic device at any  
96 time, (3) in the form of electronically transmitted facsimiles, or (4) by  
97 use of a recorded message device.

98 (d) No telephone solicitor [shall] may intentionally cause to be  
99 installed or [shall] may intentionally use any blocking device or service  
100 to circumvent a consumer's use of a caller identification service or  
101 device. No telephone solicitor [shall] may intentionally transmit  
102 inaccurate or misleading caller identification information.

103 (e) (1) Any person who obtains the name, residential address or  
104 telephone number of any consumer from published telephone  
105 directories or from any other source and republishes or compiles such  
106 information, electronically or otherwise, and sells or offers to sell such  
107 publication or compilation to telephone solicitors for marketing or  
108 sales solicitation purposes, shall exclude from any such publication or

109 compilation, and from the database used to prepare such publication  
110 or compilation, the name, address and telephone number or numbers  
111 of any consumer if the consumer's name and telephone number or  
112 numbers appear in the then current quarterly "no sales solicitation  
113 calls" listing made available by the department under subsection (b) of  
114 this section.

115 (2) This subsection does not apply to (A) any telephone company, as  
116 defined in section 16-1, for the sole purpose of compiling, publishing  
117 or distributing telephone directories or causing the compilation,  
118 publication or distribution of telephone directories or providing  
119 directory assistance, and (B) any person, for the sole purpose of  
120 compiling, publishing or distributing telephone directories for such  
121 telephone company pursuant to an agreement or other arrangement  
122 with such telephone company.

123 (f) The commissioner may adopt regulations, [pursuant to] in  
124 accordance with chapter 54, to carry out the provisions of this section.  
125 Such regulations may include, but shall not be limited to, provisions  
126 governing the availability and distribution of the listing established  
127 under subsection (b) of this section and notice requirements for  
128 consumers wishing to be included on the listing established under  
129 subsection (b) of this section.

130 (g) A violation of any of the provisions of this section shall be  
131 deemed an unfair or deceptive trade practice under subsection (a) of  
132 section 42-110b, except that no telephone solicitor may be liable under  
133 this section for a call made in violation of subdivision (1) of subsection  
134 (c) of this section if such telephone solicitor demonstrates that: (1) Such  
135 telephone solicitor established and implemented written procedures  
136 and trained its employees to follow such procedures to comply with  
137 subdivision (1) of subsection (c) of this section; (2) such telephone  
138 solicitor deleted from its call list any listing of a consumer on the then  
139 current quarterly "no sales solicitation calls" listing maintained  
140 pursuant to subsection (b) of this section; and (3) such call was made  
141 inadvertently.

142 (h) No telephone solicitor may make or cause to be made an  
143 unsolicited, automatically dialed, recorded telephonic sales call to a  
144 consumer without such consumer's prior express written consent.

145 (i) In addition to the requirements of subsections (b) to (h),  
146 inclusive, of this section, if a consumer's mobile telephone or mobile  
147 electronic device telephone number does not appear on the then  
148 current quarterly "no sales solicitation calls" listing made available by  
149 the department under subsection (b) of this section, no telephone  
150 solicitor may send or cause to be sent a text or media message to such  
151 number for the purpose of marketing or sales solicitation of consumer  
152 goods, unless such telephone solicitor has received the prior express  
153 written consent of the consumer to receive such text or media message.

154 (j) Notwithstanding the provisions of subsections (c) and (i) of this  
155 section, a telecommunications company, as defined in section 16-1,  
156 may send a text or media message to an existing customer, provided:  
157 (1) Such telecommunications company does not charge the customer a  
158 fee for such text or media message, and (2) such text or media message  
159 is primarily in connection with (A) an existing debt or contract,  
160 payment or performance of which has not been completed at the time  
161 the text or media message is sent, or (B) a prior request for customer  
162 service that was initiated by the customer.

163 [(h)] (k) In addition to any penalty imposed under chapter 735a, any  
164 telephone solicitor, who is liable under the provisions of [subsection  
165 (g)] subsections (g) to (i), inclusive, of this section, shall be fined not  
166 more than [eleven] twenty thousand dollars for each violation.

167 Sec. 2. (NEW) (*Effective October 1, 2014*) Each telephone and  
168 telecommunications company, as defined in section 16-1 of the general  
169 statutes, that issues an account statement to a consumer with respect to  
170 service for a telephone, mobile telephone or mobile electronic device  
171 shall, not less than two times per year, include on or with such  
172 statement a conspicuous notice, informing the consumer with respect  
173 to: (1) The prohibitions placed on telephone solicitors pursuant to

174 section 42-288a of the general statutes, as amended by this act, (2) how  
 175 to place the consumer's telephone number, mobile telephone number  
 176 or mobile electronic device telephone number on the "no sales  
 177 solicitation calls" listing established pursuant to subsection (b) of  
 178 section 42-288a of the general statutes, as amended by this act, and (3)  
 179 how to obtain a "no sales solicitation complaint" form on the  
 180 Department of Consumer Protection's Internet web site."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	42-288a
Sec. 2	<i>October 1, 2014</i>	New section