
OLR Bill Analysis

SB 209

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

SUMMARY:

This bill explicitly prohibits telephone solicitors from sending unsolicited text messages to (1) anyone registered on the state “Do Not Call” registry and (2) a consumer’s mobile telephone or electronic device between the hours of 9:00 p.m. and 9:00 a.m. It does so by including the sending of text messages among the registry’s prohibited acts (see BACKGROUND). Under the bill, a text message is a written message sent electronically to a mobile telephone’s or mobile electronic device’s telephone number. It does not include electronic mail sent to an electronic mail address.

In addition to the registry requirements, the bill allows solicitors to send text messages for marketing or soliciting sales of consumer goods, or causes them to be sent, only if he or she has received the customer’s prior written consent to receive such texts.

The bill also increases the maximum fine for each registry violation from \$11,000 to \$20,000. By law and under the bill, “Do Not Call” violations are also deemed an unfair and deceptive trade practice.

Under the bill, each telecommunications company that issues an account statement to a customer for providing service for a mobile telephone or mobile electronic device must include a conspicuous notice on or with the statement, on a Department of Consumer Protection (DCP) commissioner-approved form, about the “No Sales Solicitation Complaint” form located on DCP’s website.

EFFECTIVE DATE: October 1, 2014

BACKGROUND

Do Not Call Registry

Connecticut Law. State law allows any individual to register a telephone number with the “Do Not Call” registry, and prohibits telephone solicitors from making unsolicited telephone calls to any number listed on it. The law applies to calls made to (1) engage in a marketing or sales solicitation, (2) solicit a credit extension for such goods or services, or (3) obtain information to use in the soliciting a sale or credit extension.

The law does not apply to calls made or sent (1) with the consumer's prior express written or verbal permission or in response to a consumer's visit to a seller's establishment; (2) by a tax-exempt nonprofit organization; (3) primarily in connection with an existing debt or contract that has not been paid or performed; or (4) to an existing customer, unless the customer has informed the solicitor that he or she no longer wishes to receive the solicitor's calls (CGS § 42-288a).

Federal Law. The Federal Communication Commission restricts telemarketers from sending text messages under the Telephone and Consumer Protection Act. These texts are banned unless (1) the recipient previously consented to receive the message or (2) the message is sent for emergency purposes. This ban applies even if a person has not placed his or her mobile phone number on the national Do Not Call list.

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys' fees; and impose civil penalties of up to

\$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 17 Nay 0 (03/13/2014)