

2018568er

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2 An act relating to telephone solicitation; amending s.
3 501.059, F.S.; revising the definition of the term
4 "telephonic sales call" to include voicemail
5 transmissions; defining the term "voicemail
6 transmission"; prohibiting the transmission of
7 voicemails to specified persons who communicate to a
8 telephone solicitor that they would not like to
9 receive certain voicemail solicitations or requests
10 for donations; requiring a solicitor to ensure that if
11 a telephone number is available through a caller
12 identification system, that telephone number must be
13 capable of receiving calls and must connect the
14 original call recipient to the solicitor; revising
15 penalties; providing an effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Paragraph (g) of subsection (1) of section
20 501.059, Florida Statutes, is amended, a new paragraph (i) is
21 added to that subsection, and subsection (5), paragraph (c) of
22 subsection (8), and subsection (9) of that section are amended,
23 to read:

24 501.059 Telephone solicitation.—

25 (1) As used in this section, the term:

26 (g) "Telephonic sales call" means a telephone call, ~~or~~ text
27 message, or voicemail transmission to a consumer for the purpose
28 of soliciting a sale of any consumer goods or services,
29 soliciting an extension of credit for consumer goods or

2018568er

30 services, or obtaining information that will or may be used for
31 the direct solicitation of a sale of consumer goods or services
32 or an extension of credit for such purposes.

33 (i) "Voicemail transmission" means technologies that
34 deliver a voice message directly to a voicemail application,
35 service, or device.

36 (5) A telephone solicitor or other person may not initiate
37 an outbound telephone call, ~~or~~ text message, or voicemail
38 transmission to a consumer, business, or donor or potential
39 donor who has previously communicated to the telephone solicitor
40 or other person that he or she does not wish to receive an
41 outbound telephone call, ~~or~~ text message, or voicemail
42 transmission:

43 (a) Made by or on behalf of the seller whose goods or
44 services are being offered; or

45 (b) Made on behalf of a charitable organization for which a
46 charitable contribution is being solicited.

47 (8)

48 (c) It shall be unlawful for any person who makes a
49 telephonic sales call or causes a telephonic sales call to be
50 made to fail to transmit or cause not to be transmitted the
51 originating telephone number and, when made available by the
52 telephone solicitor's carrier, the name of the telephone
53 solicitor to any caller identification service in use by a
54 recipient of a telephonic sales call. However, it shall not be a
55 violation to substitute, for the name and telephone number used
56 in or billed for making the call, the name of the seller on
57 behalf of which a telephonic sales call is placed and the
58 seller's customer service telephone number, which is answered

2018568er

59 during regular business hours. If a telephone number is made
60 available through a caller identification service as a result of
61 a telephonic sales call, the solicitor must ensure that
62 telephone number is capable of receiving phone calls and must
63 connect the original call recipient, upon calling such number,
64 to the telephone solicitor or to the seller on behalf of which a
65 telephonic sales call was placed. For purposes of this section,
66 the term "caller identification service" means a service that
67 allows a telephone subscriber to have the telephone number and,
68 where available, the name of the calling party transmitted
69 contemporaneously with the telephone call and displayed on a
70 device in or connected to the subscriber's telephone.

71 (9) (a) The department shall investigate any complaints
72 received concerning violations of this section. If, after
73 investigating a complaint, the department finds that there has
74 been a violation of this section, the department or the
75 Department of Legal Affairs may bring an action to impose a
76 civil penalty and to seek other relief, including injunctive
77 relief, as the court deems appropriate against the telephone
78 solicitor. The civil penalty shall be in the Class IV ~~III~~
79 category pursuant to s. 570.971 for each violation and shall be
80 deposited in the General Inspection Trust Fund if the action or
81 proceeding was brought by the department, or the Legal Affairs
82 Revolving Trust Fund if the action or proceeding was brought by
83 the Department of Legal Affairs. This civil penalty may be
84 recovered in any action brought under this part by the
85 department, or the department may terminate any investigation or
86 action upon agreement by the person to pay a stipulated civil
87 penalty. The department or the court may waive any civil penalty

2018568er

88 if the person has previously made full restitution or
89 reimbursement or has paid actual damages to the consumers who
90 have been injured by the violation.

91 (b) The department may, as an alternative to the civil
92 penalties provided in paragraph (a), impose an administrative
93 fine in the Class III ± category pursuant to s. 570.971 for each
94 act or omission that constitutes a violation of this section. An
95 administrative proceeding that could result in the entry of an
96 order imposing an administrative penalty must be conducted
97 pursuant to chapter 120.

98 Section 2. This act shall take effect July 1, 2018.