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LEGISLATIVE ACTION

Senate

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House

The Committee on Commerce and Tourism (Yarborough) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (g) and (h) of subsection (1) and paragraph (a) of subsection (8) of section 501.059, Florida Statutes, are amended, and paragraph (c) is added to subsection (10) of that section, to read:

501.059 Telephone solicitation.—

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



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11 (g) "Prior express written consent" means a written
12 agreement that:
13 1. Bears the signature of the called party;
14 2. Clearly authorizes the person making or allowing the
15 placement of a telephonic sales call by telephone call, text
16 message, or voicemail transmission to deliver or cause to be
17 delivered to the called party a telephonic sales call using an
18 automated system for the selection and ~~or~~ dialing of telephone
19 numbers, the playing of a recorded message when a connection is
20 completed to a number called, or the transmission of a
21 prerecorded voicemail;
22 3. Includes the telephone number to which the called party
23 ~~signatory~~ authorizes a telephonic sales call to be delivered;
24 and
25 4. Includes a clear and conspicuous disclosure informing
26 the called party that:
27 a. By executing the agreement, the called party authorizes
28 the person making or allowing ~~the placement of~~ a telephonic
29 sales call to be made by telephone call, text message, or
30 voicemail transmission to deliver or cause to be delivered a
31 ~~telephonic sales call~~ to the called party a telephonic sales
32 call using an automated system for the selection and ~~or~~ dialing
33 of telephone numbers, if applicable, ~~or~~ the playing of a
34 recorded message when a connection is completed to a number
35 called, or the transmission of a prerecorded voicemail; and
36 b. He or she is not required to directly or indirectly sign
37 the written agreement or to agree to enter into such an
38 agreement as a condition of purchasing any property, goods, or
39 services.



40 (h) "Signature" includes:
41 1. An electronic or digital signature if, to the extent
42 that such form of signature is recognized as a valid signature
43 under applicable federal law or state contract law; and
44 2. An act that demonstrates express consent, including, but
45 not limited to, checking a box indicating consent or responding
46 affirmatively to receiving text messages, to an advertising
47 campaign, or to an e-mail solicitation.

48 (8) (a) A person may not make or knowingly allow to be made
49 an unsolicited a telephonic sales call ~~to be made~~ if such call
50 involves an automated system for the selection or dialing of
51 telephone numbers or the playing of a recorded message when a
52 connection is completed to a number called without the prior
53 express written consent of the called party.

54 (10)

55 (c) Notwithstanding any other provision of this section, no
56 action shall lie for a violation of subsection (8) for any
57 communication made within 30 days of:

58 1. The called party or consumer communicating with a
59 telephone solicitor or other person, orally or by text message,
60 that such called party or consumer does not wish to receive any
61 communications from that telephone solicitor or person or the
62 seller or organization represented by that telephone solicitor
63 or person.

64 2. The called party or consumer effectively withdrawing a
65 previously given valid consent.

66 Section 2. This act shall take effect upon becoming a law.

67
68 ===== T I T L E A M E N D M E N T =====



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69 And the title is amended as follows:

70 Delete everything before the enacting clause

71 and insert:

72 A bill to be entitled

73 An act relating to telephone solicitation; amending s.

74 501.059, F.S.; revising definitions; prohibiting

75 certain telephonic sales calls; providing conditions

76 under which civil actions may not be brought for

77 specified violations; providing an effective date.