

By the Committee on Commerce and Tourism; and Senators
Yarborough and Rodriguez

577-03484-23

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1 A bill to be entitled
2 An act relating to telephone solicitation; amending s.
3 501.059, F.S.; revising definitions; prohibiting
4 certain telephonic sales calls; providing conditions
5 under which civil actions may not be brought for
6 specified violations; providing an effective date.

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

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

14 501.059 Telephone solicitation.—

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

16 (g) "Prior express written consent" means a written
17 agreement that:

18 1. Bears the signature of the called party;

19 2. Clearly authorizes the person making or allowing the
20 placement of a telephonic sales call by telephone call, text
21 message, or voicemail transmission to deliver or cause to be
22 delivered to the called party a telephonic sales call using an
23 automated system for the selection and ~~or~~ dialing of telephone
24 numbers, the playing of a recorded message when a connection is
25 completed to a number called, or the transmission of a
26 prerecorded voicemail;

27 3. Includes the telephone number to which the called party
28 ~~signatory~~ authorizes a telephonic sales call to be delivered;
29 and

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30 4. Includes a clear and conspicuous disclosure informing
31 the called party that:

32 a. By executing the agreement, the called party authorizes
33 the person making or allowing ~~the placement of~~ a telephonic
34 sales call to be made by telephone call, text message, or
35 voicemail transmission to deliver or cause to be delivered a
36 ~~telephonic sales call~~ to the called party a telephonic sales
37 call using an automated system for the selection and ~~or~~ dialing
38 of telephone numbers, if applicable, ~~or~~ the playing of a
39 recorded message when a connection is completed to a number
40 called, or the transmission of a prerecorded voicemail; and

41 b. He or she is not required to directly or indirectly sign
42 the written agreement or to agree to enter into such an
43 agreement as a condition of purchasing any property, goods, or
44 services.

45 (h) "Signature" includes:

46 1. An electronic or digital signature if, ~~to the extent~~
47 ~~that such~~ form of signature is recognized as a valid signature
48 under applicable federal law or state contract law; and

49 2. An act that demonstrates express consent, including, but
50 not limited to, checking a box indicating consent or responding
51 affirmatively to receiving text messages, to an advertising
52 campaign, or to an e-mail solicitation.

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

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59 (10)

60 (c) Notwithstanding any other provision of this section, no
61 action shall lie for a violation of subsection (8) for up to two
62 communications made within 15 business days after any of the
63 following:

64 1. The called party or consumer communicating with a
65 telephone solicitor or other person, orally or by text message,
66 that such called party or consumer does not wish to receive any
67 communications from that telephone solicitor or person or the
68 seller or organization represented by that telephone solicitor
69 or person.

70 2. The called party or consumer effectively withdrawing a
71 previously given valid consent.

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