

By the Committees on Rules; and Commerce and Tourism; and
Senators Yarborough and Rodriguez

595-04209-23

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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 be brought for text
6 message solicitations; providing applicability;
7 providing an effective date.

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

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

15 501.059 Telephone solicitation.—

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

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

19 1. Bears the signature of the called party;

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

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

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30 and

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

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

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

46 (h) "Signature" includes:

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

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

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

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59 express written consent of the called party.

60 (10)

61 (c) Before the commencement of any action for damages under
62 this section for text message solicitations, the called party
63 must notify the telephone solicitor that the called party does
64 not wish to receive text messages from the telephone solicitor
65 by replying "STOP" to the number from which the called party
66 received text messages from the telephone solicitor. Within 15
67 days after receipt of such notice, the telephone solicitor shall
68 cease sending text message solicitations to the called party
69 thereafter, except that the telephone solicitor may send the
70 called party a text message to confirm receipt of the notice.
71 The called party may bring an action under this section only if
72 the called party does not consent to receive text messages from
73 the telephone solicitor and the telephone solicitor continues to
74 send text messages to the called party 15 days after the called
75 party provided notice to the telephone solicitor to cease such
76 text messages.

77 Section 2. The amendments made by this act to s. 501.059,
78 Florida Statutes, apply to any suit filed on or after the
79 effective date of this act and to any putative class action not
80 certified on or before the effective date of this act.

81 Section 3. This act shall take effect upon becoming a law.