

CHAPTER 81

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 03-1098

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AN ACT**CONCERNING THE ADDITION OF WIRELESS TELEPHONE SERVICE SUBSCRIBERS TO THE COLORADO NO-CALL LIST.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 6-1-903 (2), (7) (a) (I), (10) (a), (10) (b) (I), (10) (b) (II), and (10) (b) (III), Colorado Revised Statutes, are amended, and the said 6-1-903 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

6-1-903. Definitions. As used in this part 9, unless the context otherwise requires:

(2) "Colorado no-call list" means the database of Colorado residential subscribers AND WIRELESS TELEPHONE SERVICE SUBSCRIBERS that have given notice, in accordance with rules promulgated under section 6-1-905, of such subscribers' objection to receiving telephone solicitations.

(7) (a) "Established business relationship" means a relationship that:

(I) Was formed, prior to the telephone solicitation, through a voluntary, two-way communication between a seller or telephone solicitor and a residential subscriber OR WIRELESS TELEPHONE SERVICE SUBSCRIBER, with or without consideration, on the basis of an application, purchase, ongoing contractual agreement, or commercial transaction between the parties regarding products or services offered by such seller or telephone solicitor; and

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(10) (a) "Telephone solicitation" means any voice, ~~or~~ telefacsimile, GRAPHIC IMAGING, OR DATA COMMUNICATION, INCLUDING TEXT MESSAGING communication over a telephone line OR THROUGH A WIRELESS TELEPHONE for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services.

(b) Notwithstanding paragraph (a) of this subsection (10), "telephone solicitation" does not include communications:

(I) To any residential subscriber OR WIRELESS TELEPHONE SERVICE SUBSCRIBER with ~~that~~ THE subscriber's prior express invitation or permission;

(II) By or on behalf of any person or entity with whom a residential subscriber OR WIRELESS TELEPHONE SERVICE SUBSCRIBER has an established business relationship;

(III) For thirty days after a residential subscriber OR WIRELESS TELEPHONE SERVICE SUBSCRIBER has contacted a business to inquire about the potential purchase of goods or services or until the subscriber requests that no further calls be made, whichever occurs first;

(11) "WIRELESS TELEPHONE" MEANS A TELEPHONE THAT OPERATES WITHOUT A PHYSICAL, WIRELINE CONNECTION TO THE PROVIDER'S EQUIPMENT. THE TERM INCLUDES, WITHOUT LIMITATION, CELLULAR AND MOBILE TELEPHONES.

(12) "WIRELESS TELEPHONE SERVICE SUBSCRIBER" MEANS A PERSON WHO HAS SUBSCRIBED TO A TELEPHONE SERVICE THAT DOES NOT EMPLOY A WIRELINE TELEPHONE, OR THAT EMPLOYS BOTH WIRELINE AND WIRELESS TELEPHONES ON THE SAME CUSTOMER ACCOUNT.

SECTION 2. 6-1-904 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

6-1-904. Unlawful to make telephone solicitations to subscribers on the Colorado no-call list - requirements for telephone solicitations generally.

(1) (a) No person or entity shall make or cause to be made any telephone solicitation to the telephone ~~line~~ of any residential subscriber OR WIRELESS TELEPHONE SERVICE SUBSCRIBER in this state who has added his or her telephone number and zip code to the Colorado no-call list in accordance with rules promulgated under section 6-1-905.

(b) Any person or entity that makes a telephone solicitation to the telephone ~~line~~ of any residential subscriber OR WIRELESS TELEPHONE SERVICE SUBSCRIBER in this state shall register in accordance with the provisions of section 6-1-905 (3) (b) (II).

(2) Any person or entity that makes a telephone solicitation to the telephone ~~line~~ of any residential subscriber OR WIRELESS TELEPHONE SERVICE SUBSCRIBER in this state shall comply with the disclosure requirements of section 6-1-702.

(3) No person or entity that makes a telephone solicitation to the telephone ~~line~~ of a residential subscriber OR A WIRELESS TELEPHONE SERVICE SUBSCRIBER in this state shall knowingly utilize any method to block or otherwise circumvent such subscriber's use of a caller identification service when that person or entity's service

or equipment is capable of allowing the display of the number.

SECTION 3. 6-1-905 (1), (3) (a), (3) (b) (I), (3) (b) (III), (3) (b) (VIII), (3) (c), and (6), Colorado Revised Statutes, are amended to read:

6-1-905. Establishment and operation of a Colorado no-call list. (1) The Colorado no-call list program is hereby created for the purpose of establishing a database to use when verifying residential subscribers AND WIRELESS TELEPHONE SERVICE SUBSCRIBERS in this state who have given notice, in accordance with rules promulgated under paragraph (b) of subsection (3) of this section, of such subscribers' objection to receiving telephone solicitations. The program shall be administered by the public utilities commission.

(3) (a) Not later than July 1, 2002, the designated agent, using the designated state internet web site, shall develop and maintain the Colorado no-call list database with information provided by residential subscribers AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS SECTION, SHALL INCLUDE INFORMATION PROVIDED BY WIRELESS TELEPHONE SERVICE SUBSCRIBERS.

(b) The public utilities commission shall establish, by rule, guidelines for the designated agent for the development and maintenance of the Colorado no-call list so that the no-call list can easily be accessed by persons or entities desiring to make telephone solicitations, and by state and local law enforcement agencies. ~~No later than April 1, 2002~~ AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS SECTION, the public utilities commission shall promulgate rules that:

(I) Specify that there shall be no cost for a residential subscriber OR WIRELESS TELEPHONE SERVICE SUBSCRIBER to provide notification to the designated agent that such subscriber objects to receiving telephone solicitations;

(III) Specify that the method by which each residential subscriber AND WIRELESS TELEPHONE SERVICE SUBSCRIBER may give notice to the designated agent of his or her objection to receiving such solicitations, or may revoke such notice, shall be exclusively by entering the area code, phone number, and zip code of the subscriber directly into the database via the designated state internet web site or by using a touch-tone phone to enter the area code, phone number, and zip code of the subscriber via a designated statewide, toll-free telephone number maintained by the designated agent as a part of the Colorado no-call list;

(VIII) Require the designated agent to maintain an automated, on-line complaint system for residential subscribers AND WIRELESS TELEPHONE SERVICE SUBSCRIBERS to report suspected violations over the internet web site. The automated, on-line complaint system shall have the capability to collect, sort, and report suspected violations to the appropriate state enforcement agency electronically for enforcement purposes.

~~(c) If the appropriate federal agency establishes a single national database of telephone numbers of residential subscribers who object to receiving telephone solicitations, the designated agent shall include that portion of such single national database that relates to Colorado in the Colorado no-call list established under this part 9.~~ IF THE FEDERAL GOVERNMENT ESTABLISHES ONE OR MORE OFFICIAL

DATABASES OF RESIDENTIAL OR WIRELESS TELEPHONE SERVICE SUBSCRIBERS WHO OBJECT TO RECEIVING TELEPHONE SOLICITATIONS, THE DESIGNATED AGENT IS AUTHORIZED TO PROVIDE APPROPRIATE DATA FROM THE OFFICIAL COLORADO NO-CALL LIST EXCLUSIVELY FOR INCLUSION IN AN OFFICIAL, NATIONAL DO-NOT-CALL DATABASE. TO THE EXTENT ALLOWED BY FEDERAL LAW, THE DESIGNATED AGENT SHALL ENSURE THAT THE COLORADO NO-CALL LIST INCLUDES THAT PORTION OF AN OFFICIAL NATIONAL DO-NOT-CALL DATABASE THAT RELATES TO COLORADO.

(6) ~~Beginning not later than July 1, 2002~~ AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS SECTION, the designated agent shall update the database, on an ongoing basis, with information provided by residential subscribers, WIRELESS TELEPHONE SERVICE SUBSCRIBERS, and local exchange providers.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 25, 2003