

13-25a-102 Definitions.

As used in this chapter:

- (1) "Advertisement" means material offering for sale, or advertising the availability or quality of, any property, goods, or services.
- (2)
 - (a) "Automated telephone dialing system" means equipment used to:
 - (i) store or produce telephone numbers;
 - (ii) call a stored or produced number; and
 - (iii) connect the number called with a recorded message or artificial voice.
 - (b) "Automated telephone dialing system" does not include equipment used with a burglar alarm system, voice messaging system, fire alarm system, or other system used in an emergency involving the immediate health or safety of a person.
- (3) "Division" means the Division of Consumer Protection in the Department of Commerce.
- (4)
 - (a) "Established business relationship" means a relationship that:
 - (i) is based on inquiry, application, purchase, or transaction regarding products or services offered;
 - (ii) is formed by a voluntary two-way communication between a person making a telephone solicitation and a person to whom a telephone solicitation is made; and
 - (iii) has not been terminated by:
 - (A) an act by either party; or
 - (B) the passage of 18 months since the most recent inquiry, application, purchase, transaction, or voluntary two-way communication.
 - (b) "Established business relationship" includes a relationship with an affiliate as defined in Section 16-10a-102.
- (5) "Facsimile machine" means equipment used for:
 - (a) scanning or encoding text or images for conversion into electronic signals for transmission; or
 - (b) receiving electronic signals and reproducing them as a duplicate of the original text or image.
- (6) "Negative response" means a statement from a party stating the party does not wish to listen to the sales presentation or participate in the solicitation presented in the telephone call.
- (7) "Telephone solicitation" means the initiation of a telephone call or message for a commercial purpose or to seek a financial donation, including calls:
 - (a) encouraging the purchase or rental of, or investment in, property, goods, or services, regardless of whether the transaction involves a nonprofit organization;
 - (b) soliciting a sale of or extension of credit for property or services to the person called;
 - (c) soliciting information that will be used for:
 - (i) the direct solicitation of a sale of property or services to the person called; or
 - (ii) an extension of credit to the person called for a sale of property or services; or
 - (d) soliciting a charitable donation involving the exchange of any premium, prize, gift, ticket, subscription, or other benefit in connection with any appeal made for a charitable purpose.
- (8) "Telephone solicitor" means any natural person, firm, organization, partnership, association, or corporation who makes or causes to be made an unsolicited telephone call, including calls made by use of an automated telephone dialing system.
- (9) "Unsolicited telephone call" means a telephone call for a commercial purpose or to seek a financial donation other than a call made:
 - (a) in response to an express request of the person called;
 - (b) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of the call;

- (c) to any person with whom the telephone solicitor has an established business relationship; or
- (d) as required by law for a medical purpose.

Amended by Chapter 263, 2003 General Session