



1 (b) is formed by a voluntary two-way communication between a person making a  
2 telephone solicitation and a person to whom a telephone solicitation is made; and

3 (c) has not been terminated by either party.

4 (4) "Facsimile machine" means equipment used for:

5 (a) scanning or encoding text or images for conversion into electronic signals for  
6 transmission; or

7 (b) receiving electronic signals and reproducing them as a duplicate of the original text or  
8 image.

9 (5) "Negative response" means a statement from a party indicating the party does not wish  
10 to listen to the sales presentation or participate in the solicitation presented in the telephone call.

11 [~~(5)~~] (6) "Telephone solicitation" means~~[-(a)]~~ the initiation of a telephone call or message  
12 for the purpose of:

13 (a) encouraging the purchase or rental of, or investment in, property, goods, or services;  
14 [~~or (b) the initiation of a telephone call or message for the purpose of]~~

15 (b) soliciting a sale of or extension of credit for property or services to the person called;

16 (c) soliciting information that will or may be used for:

17 (i) the direct solicitation of a sale of property or services to the person called; or

18 (ii) an extension of credit to the person called for a sale of property or services; or

19 (d) soliciting a charitable donation involving the exchange of any premium, prize, gift,  
20 ticket, subscription, or other benefit in connection with any appeal made for a charitable purpose.

21 (7) "Telephone solicitor" means any natural person, firm, organization, partnership,  
22 association, or corporation who makes or causes to be made an unsolicited telephone call,  
23 including calls made by use of automated telephone dialing system.

24 (8) "Unsolicited telephone call" means a telephone call other than a call made:

25 (a) in response to an express request of the person called;

26 (b) primarily in connection with an existing debt or contract, payment or performance of  
27 which has not been completed at the time of the call; or

28 (c) to any person with whom the telephone solicitor has an existing business relationship.

29 Section 2. Section 13-25a-103 is amended to read:

30 **13-25a-103. Prohibited conduct for telephone solicitations -- Exceptions.**

31 (1) Except as provided in Subsection (2), a person may not operate or authorize the

1 operation of an automated telephone dialing system to make a telephone solicitation.

2 (2) A person may operate an automated telephone dialing system if a call is made:

3 (a) with the prior express consent of the person who is called agreeing to receive a  
4 telephone solicitation from a specific solicitor; or

5 (b) to a person with whom the solicitor has an established business relationship.

6 (3) A person may not make a telephone solicitation to a residential telephone before 8:00  
7 a.m. or after 9:00 p.m. local time unless prior express consent is given to call at a different time.

8 (4) A person may not make or authorize a telephone solicitation in violation of Title 47  
9 U.S.C. 227.

10 [~~(5) Where a caller identification service is available, a telephone solicitor may not block~~  
11 ~~the reception of its telephone number to a called party's telephone line.]~~

12 (5) Any telephone solicitor who makes an unsolicited telephone call to a telephone number  
13 shall:

14 (a) identify themselves;

15 (b) identify the business on whose behalf the person is soliciting;

16 (c) identify the purpose of the call immediately upon making contact by telephone with  
17 the person who is the object of the telephone solicitation;

18 (d) immediately discontinue the solicitation if the person being solicited gives a negative  
19 response at any time during the telephone call; and

20 (e) hang up the phone, or in the case of an automated telephone dialing system operator,  
21 disconnect the automated telephone dialing system from the telephone line within 25 seconds of  
22 the termination of the call by the person being called.

23 (6) A telephone solicitor may not withhold the display of the telephone solicitor's  
24 telephone number from a caller identification service when that number is being used for  
25 telemarketing purposes and when the telephone solicitor's service or equipment is capable of  
26 allowing the display of the number.

**Legislative Review Note**  
**as of 12-29-97 4:31 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**