

Representative Evan L. Olsen proposes to substitute the following bill:

TELEPHONE SOLICITATION REGULATION

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Evan L. Olsen

AN ACT RELATING TO CONSUMER PROTECTION; CREATING A DO NOT CALL LIST FOR TELEPHONE SOLICITATIONS; PROVIDING FOR STANDARDS AND RULES IN CONNECTION WITH THE DO NOT CALL LIST; ~~h [PROVIDING FOR EXEMPTIONS;] h~~ AND SETTING FORTH PROHIBITED CONDUCT IN CONNECTION WITH THE DO NOT CALL LIST.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

13-25a-104.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-25a-104.5** is enacted to read:

13-25a-104.5. Do not call list -- Operational rules and standards -- Prohibited conduct.

(1) The division shall:

(a) no later than July 1, 2000, establish and provide for the operation of a database of persons who do not wish to receive telephone solicitations, known as the do not call list;

(b) make rules pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which specify:

(i) the methods by which a person may give notice to the division or the entity operating the do not call list under contract with the division of the desire to be included on the do not call list;

(ii) the length of time for which a notice given under Subsection (1)(b)(i) shall be effective,

26 the effect of a change of telephone number on the notice, and the method of renewing the notice;

27 (iii) the methods by which notices given under Subsection (1)(b)(i) shall be collected and
28 added to the do not call list;

29 (iv) the methods by which any person or entity desiring to make telephone solicitations
30 will obtain access to the do not call list as required in order to avoid calling the telephone numbers
31 of persons included in the do not call list;

32 (v) how the do not call list shall be promoted and publicized; and

33 (vi) any other matters relating to the do not call list which are necessary to implement the
34 provisions of this section.

35 (2) The division may:

36 (a) operate and maintain the do not call list; or

37 (b) contract with another entity for the operation and maintenance of the do not call list.

38 (3) (a) A person who gives notice under Subsection (1)(b)(i) of the desire to be included
39 on the do not call list, shall be charged a fee of \$5 for each notice.

40 (b) A person desiring to make telephone solicitations in this state shall be charged a fee
41 of \$150 per year for access to or for copies of the do not call list.

42 (c) All fees collected under this section shall be deposited in the Commerce Service Fund,
43 to be used to pay the costs of developing and operating the do not call list.

44 (4) If, pursuant to 47 U.S.C. Section 227(c)(3), the Federal Communications Commission
45 establishes a single national registry of telephone numbers of subscribers who do not wish to
46 receive telephone solicitations, the division shall ~~h [h-;~~

46a ~~(a) h] h~~ include in the do not call list that part of the
47 national registry that relates to this state ~~h [h-; AND~~

47a ~~(b) PROVIDE THE UTAH DO NOT CALL LIST TO THE NATIONAL REGISTRY~~ ~~h] h~~ .

48 (5) Information contained in the do not call list:

49 (a) shall be used only for the purpose of compliance with this section or in a proceeding
50 or action under this chapter; and

51 (b) shall not be subject to public inspection or disclosure under Title 63, Chapter 2,
52 Governmental Records Access Management Act.

53 (6) Except as provided in Subsection (8), it is a violation of this chapter for any telephone
54 solicitor to:

55 (a) make, or knowingly allow to be made, a telephone solicitation to the telephone line of
56 any person in this state who has given notice under Subjection (1)(b)(i) to be included on the do

57 not call list; or

58 (b) to use the do not call list for any purpose other than to comply with the provision of
59 this chapter.

60 (7) It shall be an affirmative defense in any action or proceeding brought pursuant to this
61 section that the defendant has established and implemented, with due care, reasonable practices
62 and procedures to effectively prevent telephone solicitations in violation of this section.

63 h [(8) The provisions of Subsection (6) shall not apply to:

64 —— (a) any organization that is exempt from taxation under Section 501(c)(3) or Section
65 501(c)(6) of the Internal Revenue Code;

66 —— (b) any organization that meets the definition of a political organization in Section 527(e)
67 of the Internal Revenue Code; h [or] h

68 —— (c) a telephone call made to a person who has invited responses to an advertisement, if the
69 subject matter of the call is the same as the subject matter of the advertisement h [.] ; OR

69a —— (d) ANY ORGANIZATION DOMICILED IN THIS STATE THAT IS EXEMPT FROM
REGISTRATION

69b UNDER SECTION 13-26-4. h] h