

1 **TELEPHONE AND FACSIMILE SOLICITATION ACT**

2 **AMENDMENTS**

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael K. McKell**

6 Senate Sponsor: Curtis S. Bramble

7

LONG TITLE

8 **General Description:**

9 This bill amends the Telephone and Facsimile Solicitation Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ permits a court in a private action under the Telephone and Facsimile Solicitation
13 Act to award a person treble the amount of the person’s pecuniary loss under certain
14 circumstances; and

15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **13-25a-107**, as last amended by Laws of Utah 2003, Chapter 263

23

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

24 Section 1. Section **13-25a-107** is amended to read:

25 **13-25a-107. Private action.**



28 (1) In addition to any other remedies, a person may bring an action in any state court of
29 competent jurisdiction if:

30 (a) (i) the person has received two or more telephone solicitations or facsimile
31 advertisements from the same individual or entity that:

32 (A) violates this chapter; or

33 (B) violates Title 47 U.S.C. 227; and

34 (ii) the person, following the first telephone solicitation or facsimile advertisement,
35 notified the sender of the person's objection to receiving the telephone solicitation or facsimile
36 advertisement; or

37 (b) the person has received one telephone solicitation or facsimile advertisement in
38 violation of:

39 (i) Subsection 13-25a-103(1);

40 (ii) Subsection 13-25a-103(3);

41 (iii) Subsection 13-25a-103(5);

42 (iv) Subsection 13-25a-103(6); or

43 (v) Subsection 13-25a-104(1).

44 (2) In a suit brought under Subsection (1)[-];

45 (a) a person may:

46 [(a)] (i) recover the greater of \$500 or the amount of the pecuniary loss, if any;

47 [(b)] (ii) recover court costs and reasonable attorneys' fees as determined by the court;

48 and

49 [(c)] (iii) seek to enjoin any conduct in violation of this chapter[-]; and

50 (b) the court may award a person treble the amount of the person's pecuniary loss, if the
51 court finds that a violation was knowing and willful.