

Senator Daniel Hemmert proposes the following substitute bill:

TELEPHONE AND FACSIMILE SOLICITATION ACT

AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Telephone and Facsimile Solicitation Act.

Highlighted Provisions:

This bill:

- ▶ permits a court in a private action under the Telephone and Facsimile Solicitation Act to award a person treble the amount of the person’s pecuniary loss under certain circumstances;
- ▶ repeals provisions related to a state no-call database;
- ▶ amends prohibitions against certain unsolicited telephone calls; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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



26 **13-25a-108**, as last amended by Laws of Utah 2004, Chapter 263

27 REPEALS:

28 **13-25a-109**, as last amended by Laws of Utah 2008, Chapter 382

29

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

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

32 **13-25a-107. Private action.**

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

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

- 37 (A) violates this chapter; or
- 38 (B) violates Title 47 U.S.C. 227; and

39 (ii) the person, following the first telephone solicitation or facsimile advertisement,
40 notified the sender of the person's objection to receiving the telephone solicitation or facsimile
41 advertisement; or

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

- 44 (i) Subsection **13-25a-103**(1);
- 45 (ii) Subsection **13-25a-103**(3);
- 46 (iii) Subsection **13-25a-103**(5);
- 47 (iv) Subsection **13-25a-103**(6); or
- 48 (v) Subsection **13-25a-104**(1).

49 (2) In a suit brought under Subsection (1)[~~7~~]:

50 (a) a person may:

- 51 [~~(a)~~] (i) recover the greater of \$500 or the amount of the pecuniary loss, if any;
- 52 [~~(b)~~] (ii) recover court costs and reasonable attorneys' fees as determined by the court;

53 and

54 [~~(c)~~] (iii) seek to enjoy any conduct in violation of this chapter[~~7~~]; and

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

57 Section 2. Section **13-25a-108** is amended to read:

58 **13-25a-108. Objections to telephone solicitations.**

59 (1) A person may not make or cause to be made an unsolicited telephone call [within
60 Utah to a telephone number contained in the no-call database established under Section
61 13-25a-109:] to a person:

62 (a) located in the state; and

63 (b) (i) at a Utah telephone number contained in the national "do-not-call" registry
64 established and maintained by the Federal Trade Commission under 16 C.F.R.

65 310.4(b)(1)(iii)(B); or

66 (ii) at a non-Utah telephone number contained in the national "do-not-call" registry
67 established and maintained by the Federal Trade Commission under 16 C.F.R.

68 310.4(b)(1)(iii)(B), if the person making the call or causing the call to be made knows or
69 reasonably should know that the person receiving the call is in Utah.

70 (2) Each unsolicited telephone call made in violation of this section is a separate
71 violation.

72 Section 3. **Repealer.**

73 This bill repeals:

74 Section **13-25a-109, No-call database.**