

HB0165S01 compared with HB0165

~~deleted text~~ shows text that was in HB0165 but was deleted in HB0165S01.

inserted text shows text that was not in HB0165 but was inserted into HB0165S01.

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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: _____

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.

HB0165S01 compared with HB0165

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

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

REPEALS:

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

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

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

13-25a-107. Private action.

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

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

(A) violates this chapter; or

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

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

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

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

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

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

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

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

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

HB0165S01 compared with HB0165

(a) a person may:

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

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

and

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

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

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

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

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

(a) located in the state; and

(b) (i) at a Utah telephone number contained in the national "do-not-call" registry established and maintained by the Federal Trade Commission under 16 C.F.R. 310.4(b)(1)(iii)(B); or

(ii) at a non-Utah telephone number contained in the national "do-not-call" registry established and maintained by the Federal Trade Commission under 16 C.F.R. 310.4(b)(1)(iii)(B), if the person making the call or causing the call to be made knows or reasonably should know that the person receiving the call is in Utah.

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

Section 3. Repealer.

This bill repeals:

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