

MAINE STATE LEGISLATURE

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DATE: 3/15/94

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BUSINESS LEGISLATION

Reported by: Sen. Cianchette of Somerset

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**STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT " A" to S.P. 670, L.D. 1838, Bill, "An Act to Establish the Door-to-door and Telemarketing Consumer Solicitation Sales Act"

Amend the bill by striking out the title and substituting the following:

'Resolve, to Require a Study of Solicitation Sales Fraud'

Further amend the bill by striking out everything after the title and inserting in its place the following:

'Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this resolve requires a study that is to be completed by October 1, 1994; and

Whereas, unless this resolve is enacted on an emergency basis there will be inadequate time for the study commission to adequately perform its mission; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Commission created and charged. Resolved: That the Sales Fraud Study Commission, referred to in this resolve as the "study commission," is created to study how the State may deal with persons who use the telephone fraudulently in an attempt to make consumer sales; and be it further

COMMITTEE AMENDMENT

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Sec. 2. Appointment of members. Resolved: That the study commission consists of 11 members, appointed in the following manner:

1. Two Senators appointed by the President of the Senate, one of whom must be from the Joint Standing Committee on Utilities and one of whom must be from the Joint Standing Committee on Business Legislation. Of those 2 Senators, one must be from the minority party and one must be from the majority party;

2. Three members of the House of Representatives appointed by the Speaker of the House of Representatives, at least one of whom must be from the minority party, at least one of whom must be from the Joint Standing Committee on Utilities and one of whom must be from the Joint Standing Committee on Business Legislation;

3. One person representing the Direct Marketing Association, appointed by the Governor;

4. One person appointed by the Governor upon the recommendation of the Maine Chamber of Commerce and Industry;

5. One person from the Department of the Attorney General, Public Protection Division;

6. One person from the Department of Economic and Community Development, appointed by the commissioner;

7. One person representing the American Association of Retired Persons, appointed by the Governor; and

8. One consumer advocate appointed by the Governor.

All appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. The executive director shall contact any appointing authority whose appointments have not been made within the required time period in order to remind the appointing authorities of the deadline for these appointments and that the study commission has the right to meet without waiting for all appointments to be made; and be it further

Sec. 3. Convening of study commission. Resolved: That the Chair of the Legislative Council shall call the first meeting of the study commission between the 30th and 45th days following the

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COMMITTEE AMENDMENT "A" to S.P. 670, L.D. 1838

effective date of this resolve. If the first meeting of the study commission is not called within that time period, the Senate member from the majority party shall call the first meeting. A quorum for study commission voting is a majority of the members appointed at the time of the vote. The study commission may determine a quorum for its other activities; and be it further

Sec. 4. Selection of chair. Resolved: That the study commission shall select a chair from among its legislative members; and be it further

Sec. 5. Study subjects and tasks. Resolved: That the study commission shall consider the following study subjects and tasks.

1. In conducting the study, the study commission shall examine the following:

A. The possibility of identifying the businesses to which sales fraud laws should be directed, rather than the businesses that should be excluded from the law. The sale of investments must be one of the businesses that is examined in this study;

B. The role that consumer education could play in addressing the study subject and how present consumer education efforts can be improved;

C. The adequacy of current federal and state laws and the ability of law enforcement to deal with the study subject; and

D. How the study subject can be dealt with adequately with the least negative impact on the State's image as hospitable to business, particularly with regard to office processing services.

2. In examining these study subjects the study commission:

A. May hold an organizational meeting, 2 public hearings, 2 work sessions and a session to review a draft report;

B. Shall invite testimony from the following:

(1) The Administrator of the Securities Division of the Department of Professional and Financial Regulation;

(2) The Director of the Bureau of Elder and Adult Services in the Department of Human Services;

COMMITTEE AMENDMENT

2 (3) The Commissioner of Professional and Financial
4 Regulation or the commissioner's designee to speak on
that department's consumer education program; and

6 (4) The Principal Examiner of the Bureau of Consumer
8 Credit Protection in the Department of Professional and
Financial Regulation;

10 C. Shall obtain information on how other states' laws deal
12 with the study subject, if possible by obtaining this
information from one central source, and shall ascertain
14 the effect and effectiveness of the laws from several states
having those laws; and

16 D. Shall determine the cost to the State of enforcing and
18 the cost to the business community of adhering to any
proposed legislation; and be it further

20 **Sec. 6. Staffing. Resolved:** That the study commission may
22 request staffing from the Legislative Council; and be it further

24 **Sec. 7. Compensation. Resolved:** That the study commission
26 members who are Legislators may receive the legislative per diem
as defined in the Maine Revised Statutes, Title 3, section 2, for
each day's attendance at study commission meetings.

28 All members of the study commission may receive
30 reimbursement for travel and other necessary expenses upon
application to the Legislative Council; and be it further

32 **Sec. 8. Report. Resolved:** That the study commission shall
34 produce a brief written report and legislation necessary to
implement any recommendations and shall make an oral report to
36 the joint standing committee of the Legislature having
jurisdiction over business legislation matters.

38 If all members fail to agree on the study commission's
40 recommendations, a minority report may be submitted, which must
include the response of the majority.

42 The study commission shall finalize its conclusions and
44 recommendations by October 1, 1994 and shall present its report
together with any recommended legislation to the First Regular
46 Session of the 117th Legislature no later than November 1, 1994.

48 If the study commission requires an extension it shall apply
to the Legislative Council, which may grant the extension; and be
50 it further

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Sec. 9. Budget. Resolved: That the Executive Director of the Legislative Council shall administer the study commission's budget; and be it further

Sec. 10. Appropriation. Resolved: That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

1993-94

LEGISLATURE

Sales Fraud Study Commission

Personal Services	\$1,650
All Other	2,750

Provides funds for the Sales Fraud Study Commission for the per diem of legislative members, expenses of legislative and public members and miscellaneous commission expenses.

**LEGISLATURE
TOTAL**

\$4,400

Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.

FISCAL NOTE

1993-94

APPROPRIATIONS/ALLOCATIONS

General Fund	\$4,400
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The Legislature will require a General Fund appropriation of \$4,400 in fiscal year 1993-94 for the Sales Fraud Study Commission for the per diem of legislative members, expenses of legislative and public members and miscellaneous commission expenses. The additional costs to provide staff assistance to the commission can be absorbed by the Legislature utilizing existing budgeted resources.

The Department of the Attorney General and the Department of Economic and Community Development can absorb the costs associated with participating on the commission within the existing budgeted resources of the respective agencies.'

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STATEMENT OF FACT

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The original bill required that a seller who uses the telephone to initiate consumer contact must provide certain information at the request of the Department of the Attorney General, obtain a \$50,000 bond and incorporate certain provisions in any information provided to a consumer.

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This amendment deletes the bill and requires a commission to study the subject of consumer solicitation sales fraud and report by November 1, 1994. This amendment also adds an allocation section and a fiscal note.

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