

# MAINE STATE LEGISLATURE

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L.D. 135

DATE: 6/13/95

(Filing No. H-462 )

MAJORITY  
UTILITIES AND ENERGY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
117TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "D" to H.P. 100, L.D. 135, Bill, "An Act to Amend the Notification Requirements Regarding Automated Telephone Solicitation"

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

**'An Act Relating to Telephone Solicitation'**

Further amend the bill by striking out all of section 1 and inserting in its place the following:

**'Sec. 1. 10 MRSA c. 225** is amended by repealing the chapter headnote and enacting the following in its place:

**CHAPTER 225**

**TELEPHONE SOLICITATION**

**Sec. 2. 10 MRSA §1499**, as amended by PL 1993, c. 589, §1, is repealed and the following enacted in its place:

**§1499. Telephone solicitation**

**1. Prohibition.** A person or entity may not initiate a solicitation call to a residential telephone subscriber in this State who has notified that person or entity, pursuant to Federal Communications Commission Regulations, 47 Code of Federal Regulations, Part 64, Section 64.1200, Paragraph e, as in effect

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2 on January 1, 1995, of the subscriber's wish not to receive  
solicitation calls made by or on behalf of that person or entity.

4 2. Civil action. A person within this State who has  
received within any 12-month period more than one telephone call  
6 in violation of subsection 1 by or on behalf of the same person  
or entity may bring an action in an appropriate state court for  
8 either or both of the following:

- 10 A. An injunction to stop future calls; or
- 12 B. Recovery of actual monetary losses from each violation  
14 or up to \$500 in damages for each violation, whichever is  
greater.

16 It is an affirmative defense in any action brought under this  
subsection that the defendant has established and implemented,  
18 with due care, reasonable practices and procedures to effectively  
prevent telephone solicitations in violation of subsection 1.

20 If the court finds that the defendant willfully or knowingly  
22 violated subsection 1, the court may, in its discretion, increase  
the amount of the award to an amount equal to not more than 3  
24 times the amount available under paragraph B.

26 3. Attorney General action. Whenever the Attorney General  
has reason to believe that any person within this State has  
28 engaged or is engaging in a pattern or practice of telephone  
calls in violation of subsection 1, the Attorney General may  
30 bring a civil action on behalf of consumers for either or both of  
the following:

- 32 A. An injunction to stop future calls; or
- 34 B. Recovery of actual monetary losses from each violation  
36 or up to \$500 in damages for each violation.

38 If the court finds the defendant willfully or knowingly violated  
subsection 1, the court may, in its discretion, increase the  
40 amount of the award to an amount equal to not more than 3 times  
the amount available under paragraph B.'

44 Further amend the bill by relettering or renumbering any  
46 nonconsecutive Part letter or section number to read  
consecutively.

48 Further amend the bill by inserting at the end before the  
statement of fact the following:

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# COMMITTEE AMENDMENT

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**FISCAL NOTE**

This bill may increase the number of civil suits filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees may also increase General Fund revenue by minor amounts.'

**STATEMENT OF FACT**

This amendment, which is the majority report of the Joint Standing Committee on Utilities and Energy, repeals the mechanism in current law that requires telephone utilities to keep listings of persons who do not wish to receive automated telephone solicitations.

This amendment incorporates federal law regarding telephone solicitation and provides for the same remedies for violations of this state law as are currently provided for violations of the federal law. Under the amendment, a person or entity may not place a solicitation call to a residential telephone subscriber who has notified the person or entity that the subscriber does not want to receive solicitation calls for that person or entity. A subscriber can seek the specified remedies for a violation and the Attorney General can pursue those same remedies on behalf of consumers if the Attorney General believes a person or entity has engaged in a pattern or practice of violations.

This amendment amends the title of the bill and title of the chapter of law affected by this amendment, the Maine Revised Statutes, Title 10, chapter 225, to reflect the content of the amendment. The amendment also adds a fiscal note to the bill.