

# MAINE STATE LEGISLATURE

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RCS

L.D. 2591

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UTILITIES AND ENERGY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1855, L.D. 2591, Bill, "An Act Relating to Telemarketing"

Amend the bill in section 2 in subsection 7-A in the 5th line (page 1, line 12 in L.D.) by striking out the following: "36" and inserting in its place the following: '24'

Further amend the bill in section 4 in that part designated "~~S4690-A.~~" in subsection 1 in the 4th line (page 1, line 31 in L.D.) by striking out the following: "other than Section 310.3 (a) (3) of that rule."

Further amend the bill in section 4 in that part designated "~~S4690-A.~~" by striking out all of subsection 2 and inserting in its place the following:

'2. Additional prohibitions. A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000, and who initiates telephone contact with a consumer may not procure the services of any professional delivery courier or other pick-up service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected.'

Further amend the bill in section 4 in that part designated "~~S4690-A.~~" in subsection 3 in paragraph A in the first and 2nd

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2 lines (page 2, lines 7 and 8 in L.D.) by striking out the  
following: "in February, May, August and November of each  
4 year," and inserting in its place the following: 'semiannually'

6 Further amend the bill in section 4 in that part designated  
"\$4690-A." in subsection 3 in paragraph B in the last line (page  
8 2, line 15 in L.D.) by inserting after the following: "list" the  
following: 'unless the seller has an established business  
10 relationship with the consumer at the time the call is made'

12 Further amend the bill in section 4 in that part designated  
"\$4690-A." by inserting at the end the following:

14 '4. Other applicable law. A transient seller of consumer  
16 merchandise who is a telemarketer, as defined in the Federal  
18 Trade Commission's Telemarketing Sales Rule, 16 Code of Federal  
20 Regulations, Section 310.2, as in effect on January 1, 2000, is  
subject to and shall comply with the provisions of chapter 69,  
22 subchapter V.'

24 Further amend the bill by inserting at the end before the  
summary the following:

26 **FISCAL NOTE**

28 Eliminating the registration requirement for automated  
telephone solicitations will result in insignificant reductions  
30 of General Fund revenue collected by the Department of the  
Secretary of State from registration fees.

32 The additional costs associated with requesting transcripts  
34 can be absorbed by the Department of the Attorney General  
utilizing existing budgeted resources.'

36 **SUMMARY**

38 This amendment makes the following changes to the bill:

40 1. Reduces the period a person using an automated telephone  
42 calling device must maintain a transcript of the call message  
from 36 months to 24 months;

44 2. Removes that portion of the bill prohibiting a transient  
46 telemarketer from obtaining payment from a consumer without  
written authorization from the consumer and incorporates the  
48 Federal Trade Commission provisions that allow express,  
verifiable, oral authorization of payment;

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2           3. Reduces the frequency with which a transient  
telemarketer must consult the do-not-call list of the Direct  
4 Marketing Association from quarterly to semiannually;

6           4. Creates an exception to the prohibition on transient  
telemarketers calling consumers whose names appear on the  
8 do-not-call list of the Direct Marketing Association; the  
prohibition does not apply in the case where the seller has an  
10 established business relationship with the consumer at the time  
the call is made;

12           5. Makes expressly clear that transient telemarketers are  
14 subject to and must comply with Maine's consumer solicitation  
sales law, which requires that sales initiated by a seller over  
16 the phone must be consummated in a written contract, that the  
writing must inform the consumer that the consumer can avoid the  
18 contract and allows the consumer to avoid the contract by sending  
notice to the seller's address, which must be printed on the  
20 contract; and

22           6. Adds a fiscal note.