



119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2591

H.P. 1855

House of Representatives, February 29, 2000

An Act Relating to Telemarketing.

Reported by Representative DAVIDSON for the Joint Standing Committee on Utilities and Energy pursuant to Joint Order H.P. 1560.

Reference to the Joint Standing Committee on Utilities and Energy suggested and printing ordered under Joint Rule 218.

1.).///

OSEPH W. MAYO, Clerk

	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 10 MRSA §1498, sub-§7, as amended by PL 1991, c. 524,
4	§3, is repealed.
6	Sec. 2. 10 MRSA §1498, sub-§7-A is enacted to read:
8	7-A. Failure to produce transcript. A person using an automated telephone calling device for making solicitation calls
10	shall maintain a full transcript of each solicitation call
12	message that the person has transmitted to consumers during the previous 36 months. A copy of the transcript must be made
14	available to the Attorney General upon request. Failure to provide a copy of a requested transcript is a violation of this section.
16	Sec. 3. 10 MDSA \$1409 mub \$9 and success to a 1000 at 775
18	Sec. 3. 10 MRSA §1498, sub-§8, as enacted by PL 1989, c. 775, is amended to read:
20	8. Penalty. Violation of this section, including the
22	provision-of-false-registration-information, is an unfair trade practice as prohibited by Title 5, section 207.
24	Sec. 4. 32 MRSA §4690-A is enacted to read:
26	<u>\$4690-A. Telemarketers</u>
20	<u>Jan John Tetemerkerer</u>
28	1. Incorporation of federal standards. Violation of any
	1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on
28	1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, other than Section 310.3 (a) (3) of that rule, by a transient seller of consumer merchandise is a violation of
28 30	1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, other than Section 310.3 (a) (3) of that rule,
28 30 32	1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, other than Section 310.3 (a) (3) of that rule, by a transient seller of consumer merchandise is a violation of this chapter. 2. Additional prohibitions. A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal
28 30 32 34	1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, other than Section 310.3 (a) (3) of that rule, by a transient seller of consumer merchandise is a violation of this chapter. 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
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28 30 32 34 36 38 40 42	 1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, other than Section 310.3 (a) (3) of that rule, by a transient seller of consumer merchandise is a violation of this chapter. 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: A. Obtain or submit for payment a check, draft or other form of negotiable paper drawn on a consumer's checking, savings or bond or other account without the consumer's
28 30 32 34 36 38 40	 1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, other than Section 310.3 (a) (3) of that rule, by a transient seller of consumer merchandise is a violation of this chapter. 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: A. Obtain or submit for payment a check, draft or other form of negotiable paper drawn on a consumer's checking,
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28 30 32 34 36 38 40 42 44	 1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, other than Section 310.3 (a) (3) of that rule, by a transient seller of consumer merchandise is a violation of this chapter. 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: A. Obtain or submit for payment a check, draft or other form of negotiable paper drawn on a consumer's checking, savings or bond or other account without the consumer's express, verifiable written authorization; or

2	3. Do-not-call list. A transient seller of consumer
	merchandise who is a telemarketer, as defined in the Federal
4	Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000:
6	regulations, bettion 510.2, as in effect on bandary 1, 2000.
U	A. Shall, in February, May, August and November of each
8	year, obtain subscription listings of consumers in this
	State who have arranged to be included on the national
10	do-not-call list maintained by the Telephone Preference
	Service of the Direct Marketing Association, Inc.,
12	Farmingdale, New York or its successor organization; and
14	B. May not call any consumer in this State whose name is on
	the national do-not-call list.
16	
	A person is not in violation of paragraph B if the person
18	obtained the listing of a consumer in accordance with paragraph A
	but called that consumer as the result of a good faith error.
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22	SUMMARY
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24	This bill, reported out by the Joint Standing Committee on
~~	Utilities and Energy pursuant to a joint order, amends the
26	transient sales law with respect to telemarketers and modifies
	the law regarding the use of automated telephone calling
28	devices. Specifically, this bill:
30	1. Incorporates the Federal Trade Commission's
	Telemarketing Sales Rule into the transient sales law;
32	
	2. Prohibits a transient seller of consumer merchandise who
34	is a telemarketer and who initiates telephone contact with a
	consumer from obtaining or submitting for payment a check, draft
36	or other form of negotiable paper drawn on a consumer's checking,
	savings or bond or other account without the consumer's express,
38	verifiable written authorization;
40	2 Duckibite a turnaisut callen of consumer memberdias she
40	3. Prohibits a transient seller of consumer merchandise who
42	is a telemarketer and who initiates telephone contact with a consumer from procuring the services of any professional delivery
44	courier or other pick-up service to obtain immediate receipt or
44	possession of a consumer's payment, unless the goods are
	delivered with the opportunity to inspect before any payment is
46	collected;
48	
4 0	4. Requires a transient seller of consumer merchandise who
40	4. Requires a transient seller of consumer merchandise who is a telemarketer to obtain subscription listings of consumers

who have arranged to be included on the Direct Marketing
Association's do-not-call list and prohibits the telemarketer from calling consumers whose names are on the list. Good faith
errors are not violations of this provision; and

 5. Repeals the registration requirement for users of automated telephone calling devices and enacts a new provision
 8 requiring the users of such devices to maintain transcripts of solicitation messages and to provide these transcripts to the
 10 Attorney General upon request.