

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: April 27, 2001

(Filing No. S-91)

UTILITIES AND ENERGY

Reported by:

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 166, L.D. 585, Bill, "An Act to Remove Telemarketers from the Application of the Consumer Solicitation Sales Laws"

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

'An Act Concerning Telemarketing'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 32 MRSA §4668, as amended by PL 1977, c. 696, §251, is repealed and the following enacted in its place:

§4668. Limitation

1. Exclusions. This subchapter does not apply to the following:

A. A sale where the gross sales price, including any interest or carrying charges, is less than \$25;

B. A transaction regulated under Title 9-A, sections 3-501 to 3-507;

C. A sale by a dealer or agent or salesman of a dealer registered pursuant to chapter 105 of stocks, bonds, debentures or securities representing stocks, bonds or debentures registered pursuant to chapter 105 or expressly exempt from registration pursuant to chapter 105;

2 D. A sale of insurance regulated under Title 24-A, sections
3 2515-A and 2717; or

4
5 E. A transaction by a supervised lender, as defined in Title
6 9-A, section 1-301, subsection 39, or an agent or affiliate
7 of a supervised lender to the extent the affiliate or agent
8 is selling or offering to sell the services of the
9 supervised lender. For purposes of this paragraph,
10 "affiliate" has the same meaning as that term is defined in
11 Title 9-B, section 131, subsection 1-A.

12 **Sec. 2. 32 MRSA §4681, sub-§§1-A and 6-A are enacted to read:**

13 1-A. Affiliate. "Affiliate" has the same meaning as that
14 term is defined in Title 9-B, section 131, subsection 1-A.

15 6-A. Supervised lender. "Supervised lender" has the same
16 meaning as that term is defined in Title 9-A, section 1-301,
17 subsection 39.

18 **Sec. 3. 32 MRSA §4681, sub-§7, as amended by PL 1999, c. 386,**
19 **Pt. N, §1, is further amended to read:**

20 **7. Transient seller of consumer merchandise.** "Transient
21 seller of consumer merchandise" means any person who engages in
22 the business of selling merchandise to consumers by means of
23 personal contact or telephone contact, whether or not the seller
24 is present in the State at the time of the contact or the time of
25 sale, and who does not have, for the purposes of carrying on such
26 business, any permanent place of business within this State.
27 "Transient sellers of consumer merchandise" does not include
28 persons who sell at public fairs, expositions or bazaars or
29 members selling on behalf of public service organizations.
30 "Transient sellers of consumer merchandise" does not include
31 persons who sell exclusively by mail contact, except for persons
32 who offer merchandise or money prizes as free of charge, such as
33 contest prizes or gifts for answering a survey, but who require
34 the recipient to pay something of value in order to participate
35 in this offer, including, but not limited to, entrance fees,
36 processing fees or handling charges. A "transient seller of
37 consumer merchandise" does not include a supervised lender as
38 defined in Title 9-A, section 1-301, subsection 39 or an agent or
39 affiliate of a supervised lender to the extent the affiliate or
40 agent is selling or offering to sell the services of the
41 supervised lender.'

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

2

FISCAL NOTE

4

6 This bill may reduce prosecutions for Class D and Class E
8 crimes. If the number of jail sentences is reduced, the savings
10 to the counties are estimated to be \$83.36 per day per prisoner.
The amount of any reduction of jail time and the resulting
savings to the county jail system are expected to be
insignificant.

12

14

16

18

20

22

24

26

28

30

32

The Judicial Department may realize some minor savings from
reductions of workload, administrative costs and indigent defense
costs associated with the minimal number of cases that will no
longer be filed in the court system. Reductions in the
collection of fines may decrease General Fund revenue by minor
amounts.'

SUMMARY

This amendment, which is the majority report of the Joint
Standing Committee on Utilities and Energy, replaces the bill and
amends the title to reflect the changes to the bill. This
amendment exempts affiliates and agents of supervised lenders, to
the extent they are selling or offering to sell the services of
the supervised lender, from the provisions of the law relating to
transient sellers of consumer merchandise. It also exempts
supervised lenders and their affiliates and agents, to the extent
they are selling or offering to sell the services of the
supervised lender, from the law relating to consumer solicitation
sales. These laws impose certain requirements on telemarketers.
This amendment also adds a fiscal note to the bill.