

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 585

S.P. 166

In Senate, February 6, 2001

An Act to Remove Telemarketers from the Application of the Consumer Solicitation Sales Laws.

Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LONGLEY of Waldo.
Cosponsored by Representative COLWELL of Gardiner and
Senators: KILKELLY of Lincoln, President MICHAUD of Penobscot, MITCHELL of
Penobscot, SAVAGE of Knox, SHOREY of Washington, Representatives: BERRY of
Belmont, McNEIL of Rockland, RICHARDSON of Brunswick.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 32 MRSA §4662**, as amended by PL 1987, c. 202, §2, is further amended to read:

6 **§4662. Contents of contract**

8 Where merchandise is sold or contracted to be sold, whether
10 under a single contract or under multiple contracts, to a
12 consumer as a result of or in connection with a ~~salesman's direct~~
14 ~~contact accomplished by means of and including, but not limited~~
16 ~~to, a salesperson's~~ personal visit or a telephone call upon the
18 consumer or other face-to-face contact with the consumer, other
20 than at the seller's place of business, without the consumer
22 soliciting the initial contact, the contract ~~shall~~ must be in
24 writing, bear the signature of the seller and the consumer,
 contain the date of the transaction, the terms of the sale or
 offer, the name and the mailing address of the seller's permanent
 place of business, a statement of the consumer's right to avoid
 as provided in this subchapter and a statement of the limitation
 contained in section 4664-A. A completely executed copy of the
 contract or agreement ~~shall~~ must be furnished by the seller to
 the consumer immediately after the consumer signs the agreement
 or contract.

26 **Sec. 2. 32 MRSA §4663**, as repealed and replaced by PL 1977,
28 c. 331, is amended to read:

30 **§4663. Consumer's right of avoidance**

32 Where merchandise is sold or contracted to be sold, whether
34 under a single contract or under multiple contracts, to a
36 consumer as a result of or in connection with a ~~salesman's direct~~
38 ~~contact accomplished by means of and including, but not limited~~
40 ~~to, a salesperson's~~ personal visit or a telephone call, upon the
42 consumer or other face-to-face contact with the consumer, other
 than at the seller's place of business, without the consumer
 soliciting the initial contact or sale, the consumer may void the
 contract or sale by giving notice of ~~his~~ the consumer's intention
 not to be bound by the contract or sale and returning or making
 available for return any merchandise delivered pursuant to the
 terms of this subchapter.

44 **Sec. 3. 32 MRSA §4690-A, sub-§4**, as enacted by PL 1999, c.
46 694, §4, is amended to read:

48 **4. Other applicable law.** A transient seller of consumer
50 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, is

2 subject to and shall comply with the provisions of chapter 69,
3 subchapter V if the transient seller also makes a personal visit
4 upon or other face-to-face contact with the consumer.

6 SUMMARY

8 This bill removes telemarketers from the provisions of
9 Maine's consumer solicitation sales laws that require the
10 contents of any telemarketer's contract be in writing, that the
11 consumer have a right of avoidance and that the telemarketer
12 comply with transient sellers requirements. This bill allows the
13 current federal law concerning telemarketers to control. The
14 bill leaves intact current state law prohibiting automated
15 telephone solicitation and the establishment of a "do not call"
16 rule.