



# **121st MAINE LEGISLATURE**

## FIRST REGULAR SESSION-2003

**Legislative Document** 

No. 392

### H.P. 312

House of Representatives, January 30, 2003

### An Act To Prohibit Use of Computerized Calls by Telemarketers

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

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND Clerk

Presented by Representative DUDLEY of Portland. Cosponsored by Senator STRIMLING of Cumberland and Representatives: ADAMS of Portland, BLISS of South Portland, BULL of Freeport, COWGER of Hallowell, LAVERRIERE-BOUCHER of Biddeford, MAILHOT of Lewiston, PINGREE of North Haven, Senator: MAYO of Sagadahoc.

Be it enacted by the People of the State of Maine as follows: 2 Sec. 1. 10 MRSA §1498, sub-§1, ¶A, as enacted by PL 1989, c. 4 775, is amended to read: "Automated telephone calling device" means any system or 6 Α. equipment that selects, dials or calls telephone numbers and 8 plays recorded or computer-generated messages. 10 Sec. 2. 10 MRSA §1498, sub-§2, as enacted by PL 1989, c. 775, is amended to read: 12 2. Prohibition. A Except as provided in subsection 6, a 14 person may not use an automated telephone calling device to make solicitation calls to+ any telephone number in this State. 16 A---Any-emergency-telephone-numbers-in-this-State-including, 18 but-not--limited-to,-the-omergency-telephone-numbers-of-any hospital, --- physician, --- hoalth -- care -- facility, --- ambulance 20 service,-or-fire-or-law-enforcement-officer-or-facility; 22 B---Any-paging-or-cellular-phone-within-the-State;-or 24 C---- Any -unlisted, -- unpublished, -- toll-free--long-distance--er direct-inward-dial-telephone-number-within-the-State. 26 Sec. 3. 10 MRSA §1498, sub-§3, as amended by PL 1991, c. 524,  $\S2$ , is further amended to read: 28 30 3. Restriction. A person making a permitted use of an automated telephone calling device pursuant to subsection 6 may 32 not use an automated telephone calling device to make solicitation calls to any telephone number in the State except weekdays between 9 a.m. and 5 p.m., according to the time in this 34 State, and may not complete more than one solicitation call to any telephone number during each 8-hour period. In addition, the 36 person using the device to place the call shall ensure that the 38 device disconnects no more than 5 seconds following the disconnection of the telephone number called. A person making a 40 permitted use of an automated telephone calling device pursuant to subsection 6 may not use an automated telephone calling device to make solicitation calls to: 42 A. Any emergency telephone numbers in this State, 44 including, but not limited to, the emergency telephone numbers of any hospital, physician, health care facility, 46 ambulance service or fire or law enforcement officer or facility; 48 50 B. Any paging or cellular phone within the State; or

C. Any unlisted, unpublished, toll-free long distance or direct inward dial telephone number within the State.

Sec. 4. 10 MRSA 1498, sub-§5 and 6, as enacted by PL 1989, c. 775, are amended to read:

5. Prima facie violation. Use of any automated calling 8 device that calls telephone numbers sequentially and eannet <u>can</u> not distinguish the telephone numbers of those authorized to be 10 contacted from those it is unlawful to contact <u>pursuant to</u> <u>subsection 3</u> is prima facie evidence of intent to violate this 12 section.

14 **6. Exceptions.** This section does not prohibit the use of an automated telephone calling device to:

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- A. Inform purchasers of the receipt, availability or delivery of goods or services or any other pertinent information on the status of any purchased goods or services;
- B. Respond to a telephone inquiry initiated by the person
  to whom the automated call is directed; er
- 24 C. Carry out the duties of any state or local governmental unit-;
- D.Makecharitablesolicitationcallsonbehalfofa28charitableorganization,asdefinedinTitle9,section5003; or
- E. Make calls on behalf of a political party or a candidate for elected public office.

#### **SUMMARY**

This bill generally prohibits the use of automated telephone solicitation calls to persons in this State. The bill provides exceptions for calls made on behalf of a charitable organization or on behalf of a political party or candidate. It also preserves those portions of existing law that limit and prohibit certain uses of automated telephone solicitation calls and the exceptions to the limits and prohibitions.