

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1360

S.P. 448

In Senate, March 18, 2003

An Act To Create a No-contact List and Prohibit Unsolicited E-mail

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 DOUGLASS of Androscoggin.

Cosponsored by Senator: BROMLEY of Cumberland, Representatives: GAGNE-FRIEL of Buckfield, LUNDEEN of Mars Hill, MOODY of Manchester, NORTON of Bangor, RINES of Wiscasset.

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

4 **Sec. 1. 10 MRSA c. 225**, as amended, is repealed.

6 **Sec. 2. 32 MRSA §14716, sub-§3**, as enacted by PL 2001, c. 324,
§12, is repealed.

8 **Sec. 3. 32 MRSA c. 128, sub-c. 3** is enacted to read:

10 **SUBCHAPTER 3**

12 **TELEMARKETING AND E-MAIL REGULATION**

14 **§14751. Definitions**

16 As used in this subchapter, unless the context otherwise
18 indicates, the following terms have the following meanings.

20 1. **Automated telephone calling device.** "Automated
22 telephone calling device" means any system or equipment that
selects, dials or calls telephone numbers and plays recorded
messages.

24 2. **Caller identification service.** "Caller identification
26 service" means a service or device designed to provide the user
of the service or device with the telephone number of an incoming
telephone call.

28 3. **Consumer good or service.** "Consumer good or service"
30 means property of any kind that is normally used for personal,
family or household purposes. "Consumer good or service" does
32 not include a security as defined in Title 11, section 8-1102.

34 4. **E-mail.** "E-mail" means electronic mail sent or
36 delivered by transmission over the Internet.

38 5. **E-mail service provider.** "E-mail service provider"
means a business or organization qualified to do business in this
40 State that provides individuals, corporations or other entities
the ability to send or receive e-mail through equipment located
42 in this State or that is an intermediary in sending or receiving
e-mail.

44 6. **Established business relationship.** "Established
46 business relationship" means a prior or existing relationship of
a person formed by a voluntary 2-way communication between a
48 person and a consumer, regardless of whether consideration is
exchanged, regarding consumer goods or services offered by the
50 person that has not been terminated by either party.

2 **7. Facsimile recording device.** "Facsimile recording
device" means any device capable of receiving a facsimile
transmission.

4
6 **8. Facsimile solicitation.** "Facsimile solicitation" means
a telemarketing call made by a transmission to a facsimile
recording device.

8
10 **9. Maine no-contact list.** "Maine no-contact list" means
the list compiled pursuant to section 14755 by the Attorney
General of names, addresses, telephone numbers and e-mail
addresses of consumers in this State who object to receiving
unsolicited telemarketing calls and unsolicited commercial e-mail.

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16 **10. State licensee.** "State licensee" means a person
licensed by a state agency under a law of this State that
requires the person to obtain a license as a condition of
engaging in a profession or business.

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20 **11. Telemarketer.** "Telemarketer" means a person who makes
or causes to be made a telemarketing call.

22
24 **12. Telemarketing call.** "Telemarketing call" means an
unsolicited telephone call made to solicit a sale of a consumer
good or service, solicit an extension of credit for a consumer
good or service, or obtain information that may be used to
solicit a sale of a consumer good or service or to extend credit
for the sale. "Telemarketing call" does not include a call made:

30 A. By a consumer that is the result of a solicitation by a
seller or telemarketer or in response to general media
advertising by direct mail solicitations that clearly,
conspicuously and truthfully make all disclosures required
by federal or state law;

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36 B. In connection with:

38 (1) An established business relationship; or

40 (2) A business relationship that has been terminated,
if the call is made before the later of the date the
first Maine no-contact list in which the consumer's
telephone number appears is published and one year
after the date of termination;

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46 C. Between a telemarketer and a business, other than by a
facsimile solicitation, unless the business informed the
telemarketer that the business does not wish to receive
telemarketing calls from the telemarketer;

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2 D. To collect a debt;

4 E. By a state licensee if:

6 (1) The call is not made by an automated telephone dialing system;

8 (2) The solicited transaction is not completed until after a face-to-face sales presentation by the seller and the consumer is not required to pay or authorize payment until after the presentation; and

10 (3) The consumer has not informed the telemarketer that the consumer does not wish to receive telemarketing calls from the telemarketer;

12 F. By a bona fide nonprofit charitable organization, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, to solicit contributions or donations; or

14 G. By a person for the purpose of endorsing a candidate for a political office.

16 13. Telephone call. "Telephone call" means a call or other transmission that is made to or received at a telephone number, including:

18 A. A call made by an automated telephone dialing system; and

20 B. A transmission to a facsimile recording device.

22 14. Unsolicited commercial e-mail. "Unsolicited commercial e-mail" means an e-mail, other than an e-mail sent at the request of the recipient, sent via an e-mail service provider to 2 or more recipients in this State with whom the sender does not have an existing business relationship for the purpose of:

24 (1) Offering real property, goods or services for sale or rent;

26 (2) Conveying information on real property, goods or services to solicit sales or purchase;

28 (3) Conveying information on the extension of credit; or

30 (4) Promoting or soliciting charitable contributions.

32 "Unsolicited commercial e-mail" does not include an e-mail message to which an e-mail service provider has attached an

advertisement if the e-mail service provider has an agreement with the recipient under which the e-mail service provider allows the recipient free use of an e-mail account in exchange for allowing the e-mail service provider to send such advertisements.

§14752. Automated telemarketing calls prohibited

1. Prohibited use. A person may not use an automated telephone calling device to make telemarketing calls to:

A. Any emergency telephone numbers in this State, including, but not limited to, the emergency telephone numbers of any hospital, physician, health care facility, ambulance service or fire or law enforcement officer or facility;

B. Any paging or cellular phone within the State; or

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

2. Restriction. A person may not use an automated telephone calling device to make telemarketing calls to any telephone number in the State except weekdays between 9 a.m. and 5 p.m., according to the time in this State, and may not complete more than one telemarketing call to any telephone number during each 8-hour period. In addition, the person using the device to place the call shall ensure that the device disconnects no more than 5 seconds following the disconnection of the telephone number called.

3. Caller identification. Persons making telemarketing calls restricted under the provisions of subsection 2 shall, within the first minute of the call, identify the name, address and telephone number of the organization for whom the call is being made.

4. Prima facie violation. Use of any automated telephone calling device that calls telephone numbers sequentially and can not distinguish the telephone numbers of those authorized to be contacted from those it is unlawful to contact is prima facie evidence of intent to violate this section.

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

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;

2 B. Respond to a telephone inquiry initiated by the person
3 to whom the automated call is directed; or

4 C. Carry out the duties of any state or local governmental
5 unit.

6
7 6. Failure to produce transcript. A person using an
8 automated telephone calling device for making telemarketing calls
9 shall maintain a full transcript of each telemarketing call
10 message that the person has transmitted to consumers during the
11 previous 24 months. A copy of the transcript must be made
12 available to the Attorney General upon request. Failure to
13 provide a copy of a requested transcript is a violation of this
14 section.

15 **§14753. Interference with caller identification service**
16 **prohibited**

17
18 A telemarketer may not, in making a telemarketing call,
19 block the identity of the telephone number from which the
20 telephone call is made to evade devices designed to identify
21 telephone callers. A telemarketer may not:

22
23 1. Interfere or circumvent. Interfere with or circumvent
24 the capability of a caller identification service to access or
25 provide to the recipient of the telemarketing call any
26 information regarding the call that the service is capable of
27 providing; or

28
29 2. Fail to provide information. Fail to provide caller
30 identification information in a manner that is accessible by a
31 caller identification service, if the person has capability to
32 provide the information in that manner.

33
34 For purposes of this section, the use of telecommunications
35 service or equipment that is incapable of transmitting caller
36 identification information does not of itself constitute
37 interference with or circumvention of the capability of a caller
38 identification service to access or provide the information.

39 **§14754. Facsimile transmissions**

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42 1. Notice in facsimile solicitation. In addition to the
43 technical and procedural standards of federal statutes or
44 regulations regarding telephone facsimile machines and
45 transmissions, a person in this State who makes or causes to be
46 made a facsimile solicitation shall include in the document
47 transmitted or on a cover page to the document a statement, in at
48 least 12-point type, stating:

2 A. The correct and complete name of the person making the
4 facsimile solicitation and street address of the location of
6 the person's place of business; and

8 B. A toll-free or local exchange-accessible telephone
10 number of the person that:

12 (1) Is answered in the order in which calls are
14 received by an individual capable of responding to
16 inquiries from recipients of facsimile solicitations at
18 all times after 9 a.m. and before 5 p.m. on each day
20 except Saturday and Sunday; or

22 (2) Automatically and immediately deletes the
24 specified telephone number of the recipient.

26 2. Acknowledgment required; transmission prohibited. On
28 receipt of oral or written notification from a recipient of a
30 facsimile solicitation not to send any further facsimile
32 transmissions to one or more telephone numbers specified by the
34 recipient, the person making the facsimile solicitation:

36 A. Shall within 24 hours send the recipient a written
38 acknowledgment of the recipient's notification; and

40 B. May not make or cause to be made a transmission to a
42 telephone number specified by the recipient, except for a
44 single transmission to comply with paragraph A.

46 **§14755. Maine no-contact list**

48 1. Attorney General to establish Maine no-contact list.
50 The Attorney General shall establish and provide for the
operation of a database to compile a list of names, addresses and
telephone numbers and e-mails of consumers in this State who
object to receiving unsolicited telemarketing calls and
commercial e-mails.

2. Contract. The Attorney General may contract with a
private vendor to maintain the Maine no-contact list if:

A. The private vendor has maintained a national no-contact
list database for more than 2 years containing the names,
addresses and telephone numbers of consumers in this State
who have previously requested to be added to the vendor's
national no-contact list; and

B. The contract requires the private vendor to publish the
Maine portion of the national no-contact list in an
electronic format to any telemarketer who agrees to use the

2 Maine no-contact list only for the purposes of updating the
3 no-contact list of that telemarketer by including in its
4 list persons with whom the telemarketer does not have an
5 established business relationship.

6 **3. Contents of Maine no-contact list.** The Maine no-contact
7 list must contain the name, address, telephone number and e-mail
8 address, if any, of each consumer in this State who has requested
9 to be on that list. The Maine no-contact list must be updated
10 and published monthly. An entry on the Maine no-contact list
11 expires on the 3rd anniversary of the date the entry is first
12 published on the list. An entry may be renewed for successive
13 3-year periods, without limitation. The telephone number of the
14 consumer on the Maine no-contact list may be deleted from the
15 list on the consumer's written request or if the telephone number
16 or e-mail address of the consumer is changed.

17 **4. Fee; fund.** The Attorney General may charge a person a
18 reasonable amount not to exceed \$3 for a request to place a
19 telephone number or e-mail address on the Maine no-contact list
20 or to renew an entry on the list. Fees collected under this
21 subsection must be deposited into a fund maintained in the
22 Department of the Attorney General for use by the Attorney
23 General for enforcement and administration of this subchapter.

24 **5. Request form.** The Attorney General shall develop and
25 make available a form to be used by consumers to request to be on
26 the Maine no-contact list and shall provide a toll-free telephone
27 number and Internet e-mail address that persons may use to order
28 a copy of the form. A private for-profit publisher of a
29 residential telephone directory that is distributed to the public
30 at minimal or no cost must include in the directory a prominently
31 displayed toll-free number and Internet e-mail address
32 established by the Attorney General through which a person may
33 order a copy of the form.

34 **§14756. Telemarketing calls to persons on Maine no-contact list**

35 A telemarketer may not make a telemarketing call to a
36 telephone number that has been published on the Maine no-contact
37 list more than 60 days after the telephone number appears on the
38 Maine no-contact list.

39 **§14757. Penalties for telemarketing violation**

40 **1. Presumption of adverse effect.** For purposes of this
41 section, a consumer on the Maine no-contact list is presumed to
42 be adversely affected by a telemarketer who calls the consumer
43 more than once.

44

2 2. Attorney General's duties. Except as provided in
3 subsection 3, the Attorney General shall receive and investigate
4 complaints concerning violations of section 14752, 14753, 14754
5 or 14756 and file civil enforcement actions seeking injunctive
6 relief, attorney's fees and civil penalties in an amount not to
7 exceed \$1,000 for each violation. If the court finds the
8 defendant willfully or knowingly violated section 14752, 14753,
9 14754 or 14756, the court may increase the amount of the civil
10 penalties to an amount not to exceed \$3,000 for each violation.
11 A violation of section 14752, 14753, 14754 or 14756 is subject to
12 enforcement action by the Attorney General's consumer protection
13 division. If the complaint alleges that the person violating
14 section 14752, 14753, 14754 or 14756 is a telecommunications
15 provider, the Attorney General has exclusive jurisdiction,
16 notwithstanding subsection 3, over the violation alleged in the
17 complaint, except that this does not affect the right of a
18 consumer to bring an action under subsection 4.

19 For purposes of this subsection, "telecommunications provider"
20 means a local exchange carrier, a commercial mobile radio service
21 provider, as defined in 47 United States Code, Section 332(d), an
22 employee of a local exchange carrier or commercial mobile radio
23 service provider acting within the scope of the employee's
24 employment or an agent of a local exchange carrier or commercial
25 mobile radio service provider acting within the scope of the
26 agent's agency.

27 3. State agency duties. A state agency that issues a
28 license to a state licensee shall receive and investigate
29 complaints concerning violations of section 14752, 14753, 14754
30 or 14756 by the licensee, may assess an administrative penalty
31 not to exceed \$1,000 for each violation and may order restitution
32 of any monetary damages of the complainant. In addition, if the
33 agency finds that the licensee willfully or knowingly violated
34 any of those sections, the agency may suspend or revoke the
35 licensee's license. All administrative fees collected pursuant
36 to this subsection accrue to the Department of the Attorney
37 General for use by the Attorney General for enforcement and
38 administration of this subchapter.

39 4. Consumer cause of action. A consumer may bring a cause
40 of action against a telemarketer as provided in this subsection.
41

42 A. A consumer on the Maine no-contact list may bring a
43 civil action based on the 2nd or a subsequent violation of
44 section 14756 if:

45 (1) The consumer has notified the telemarketer of the
46 alleged violation and, not later than the 30th day
47 after the date of the call, files a verified complaint
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setting forth the relevant facts surrounding the violation with the Attorney General or a state agency that licenses the person making the call; and

(2) The Attorney General or a state agency receiving the complaint fails to initiate an administrative action or a civil enforcement action, as appropriate, against the telemarketer named in the complaint before the 121st day after the date the complaint is filed.

If the consumer brings an action based on a violation of section 14756 and the court finds that the defendant willfully or knowingly violated section 14756, the court may award damages in an amount not to exceed \$500 for each violation.

B. Notwithstanding this subsection or subsection 2 or 3, a consumer may bring a private right of action based on a violation of section 14752, 14753 or 14754:

(1) To enjoin the violation; or

(2) For damages in an amount equal to the person's actual monetary loss from the violation or \$500 for each violation, whichever is greater.

If the court finds that the defendant willfully or knowingly violated section 14752, 14753 or 14754, the court may increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (2).

5. Venue. Venue for an action based on a violation of this subchapter is in the county where the telemarketing call was made or received or, if brought by the Attorney General or a state agency, in Kennebec County.

6. Determination of penalties. The amount of a civil or administrative penalty imposed under this section must be based on:

A. The seriousness of the violation, including the nature, circumstances, extent and gravity of the violation;

B. The history of previous violations;

C. The amount necessary to deter a future violation;

D. Efforts to correct the violation; and

2 E. Any other matter that justice may require.

4 **§14758. E-mail solicitation restricted**

6 1. Requirements. A person sending unsolicited commercial
8 e-mail shall maintain a valid toll-free telephone number,
10 physical postal address and return e-mail address that the
 recipient may use to provide notice to the sender that the
 recipient does not wish to receive any more unsolicited
 commercial e-mail.

12 2. Statement. All unsolicited commercial e-mail must
14 contain:

16 A. In the subject line:

18 (1) The first 4 characters as follows: "ADV:"; and

20 (2) If the unsolicited commercial e-mail contains
22 information about material that may be viewed only by a
 person at least 18 years of age, the first 8 characters
 as follows: "ADV:ADLT";

24 B. A statement informing the recipient of the name of the
26 person or entity from which the unsolicited commercial
 e-mail originated;

28 C. The return e-mail address required by subsection 1; and

30 D. A statement informing the recipient that the recipient
32 may use the return e-mail address to notify the sender that
34 the recipient does not want to receive any more unsolicited
 commercial e-mails from the sender.

36 3. Prohibition. A person receiving notification, either
38 from the recipient or by virtue of the presence of the
40 recipient's e-mail address on the Maine no-contact list, from a
42 recipient that the recipient does not wish to receive any more
44 unsolicited commercial e-mails from that person shall cease to
46 send unsolicited commercial e-mails to that recipient. If a
 recipient is the registered owner of more than one e-mail address
 and notifies the sender of unsolicited commercial e-mails to
 cease sending unsolicited commercial e-mails to all of the e-mail
 addresses registered to that person or entity, the sender shall
 cease to send unsolicited commercial e-mails to those addresses.

48 4. Penalty. Violation of this section is an unfair trade
50 practice as prohibited by Title 5, section 207. Each unsolicited
 commercial e-mail transmission to a recipient in violation of
 this chapter constitutes a separate violation. The Attorney

2 General shall establish procedures for receiving and
4 investigating complaints of violations of this section. The
6 procedures may include the development of electronic forms,
8 available over the Internet, by which a person may file a
10 complaint with the Attorney General alleging a violation of this
12 section.

14 **5. Civil action; recipients.** Notwithstanding Title 5,
16 section 213, a person who receives a commercial e-mail sent in
18 violation of this section may bring an action in an appropriate
20 state court for either or both of the following:

- 22 A. An injunction to stop such future e-mails; and
24 B. Recovery of actual damages from each violation or up to
26 \$250 in damages for each violation, whichever is greater.

28 If the court finds there has been a violation of this section,
30 the court shall award the petitioner reasonable attorney's fees
32 and costs incurred in connection with the action.

34 If the court finds that the defendant willfully or knowingly
36 violated this section, the court may, in its discretion, increase
38 the amount of the award to an amount equal to not more than 3
40 times the amount available under paragraph B.

42 **6. Civil action; e-mail service providers.** Notwithstanding
44 Title 5, section 213, an e-mail service provider through whose
46 service is sent a commercial e-mail in violation of this section
48 may bring an action in an appropriate state court for either or
50 both of the following:

- 2 A. An injunction to stop such future e-mails; and
4 B. Recovery of actual damages from each violation or up to
6 \$1,000 in damages for each violation, whichever is greater.

8 If the court finds there has been a violation of this section,
10 the court shall award the petitioner reasonable attorney's fees
12 and costs incurred in connection with the action.

14 If the court finds that the defendant willfully or knowingly
16 violated this section, the court may, in its discretion, increase
18 the amount of the award to an amount equal to not more than 3
20 times the amount available under paragraph B.

22 **7. Immunity.** An e-mail service provider may, upon its own
24 initiative, block the receipt or transmission through its service
26 of any commercial e-mail that it reasonably believes is or will
28 be sent in violation of this section. An e-mail service provider

2 is not liable for any action taken in good faith to block the
3 receipt or transmission through its service of any commercial
4 e-mail that it reasonably believes is or will be sent in
5 violation of this section.

6 **§14759. Rulemaking**

8 The Attorney General shall adopt rules to administer this
9 subchapter. Rules adopted pursuant to this section are major
10 substantive rules as defined in Title 5, chapter 375, subchapter
11 2-A. The rules must:

12
13 **1. Information dissemination.** Require each local exchange
14 telephone company to inform its customers of the requirements of
15 this subchapter by annual inserts in billing statements mailed to
16 customers or conspicuous publication of the notice in the
17 consumer information pages of local telephone directories or
18 other appropriate notice to consumers. The Attorney General may
19 conduct educational programs designed to inform the public of
20 their rights and telemarketers of their obligations under this
21 subchapter;

22
23 **2. Nonviolation.** Provide that a telemarketing call made to
24 a number on the Maine no-contact list is not a violation of
25 section 14756 if the telemarketing call is an isolated occurrence
26 made by a person who has in place adequate procedures to comply
27 with this subchapter; and

28 **3. Format of list; fee.** Provide for:

29
30 **A.** The dissemination of copies of the Maine no-contact list
31 in formats, including electronic formats, commonly used by
32 persons making telemarketing calls; and

33 **B.** A fee, not to exceed \$75, for each distribution of the
34 Maine no-contact list.

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37 **§14760. Report by Attorney General**

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39 Before December 31st of each even-numbered year, the
40 Attorney General shall submit a report to the Legislature. The
41 report must contain for the 2-year period ending August 31st of
42 the year of the report:

43
44 **1. Maine no-contact list statistics.** A statement of the
45 number of telephone numbers included on the Maine no-contact
46 list, the number of copies of the Maine no-contact list
47 distributed and the amount collected for those requests and for
48 distribution;

- 2 2. Complaints. A list of complaints received by the
3 Attorney General or a state agency concerning activities
4 regulated by this subchapter, itemized by type;
- 6 3. Enforcement. A summary of any enforcement efforts made
7 by the Attorney General and any state agencies; and
- 8 4. Recommendations. The Attorney General's recommendations
9 for any changes in this subchapter and any necessary implementing
10 legislation.

12
14

SUMMARY

16 This bill regulates telephone solicitation by consolidating
17 various laws regarding telemarketers found in different sections
18 of the Maine Revised Statutes and does the following.

- 20 1. It changes the scope of the application to telemarketers
21 to include all telemarketers, regardless of their place of
22 business. Calls made by nonprofit charitable organizations and
23 political organizations are exempt.
- 24 2. It prohibits a telemarketer from blocking the display of
25 its phone number from the consumer being called.
- 26 3. It continues the current restrictions on the use of
27 automated telephone calling devices to make telemarketing calls.
- 28 4. It requires telemarketers making solicitations via
29 facsimile to provide the name and address of the person making
30 the solicitation, as well as a toll-free telephone number that
31 must be answered by an individual on weekdays between the hours
32 of 9 a.m. and 5 p.m. or that automatically deletes the specified
33 telephone number of the caller from the telemarketer's database.
- 34 5. It requires the Attorney General to establish, either
35 in-house or through a contract with a private vendor, the Maine
36 no-contact list, a database of names, addresses, telephone
37 numbers and e-mail addresses of consumers in this State who
38 object to receiving unsolicited telemarketing or telephone calls
39 or commercial e-mail. Although a no-contact list is required now
40 by law and maintained by the Attorney General, this bill places
41 responsibility for the no-contact list with the Attorney General
42 and requires the list to contain e-mail addresses. The Attorney
43 General is required to provide information about the list and
44 forms for enrolling on the list. The Attorney General may charge
45 a fee of no more than \$3 for inclusion on the list; a consumer
46 remains on the list for 3 years or until the consumer is assigned
47 to the list.
48

2 a new number or e-mail address. The list must be updated every
month.

4 6. It allows telemarketers and commercial e-mail senders to
6 purchase the Maine no-contact list from the Attorney General for
a fee not to exceed \$75 and prohibits telemarketers from calling
8 consumers listed on the Maine no-contact list.

10 7. It allows an action to be brought against a telemarketer
by the Attorney General, by a state agency that licenses the
12 telemarketer or by the affected consumer. A violation is
punishable by a civil penalty or administrative penalty of up to
14 \$3,000 for each violation.

16 8. It requires the Attorney General to report to the
Legislature every 2 years regarding the Maine no-contact list,
18 complaints and enforcement actions and any suggested changes for
improving the regulation of telemarketing.

20 9. It restricts unsolicited commercial e-mail, defined as
22 e-mail that is sent for the purpose of advertising or conveying
information about real property, goods or services or extending
24 credit or soliciting contributions, by requiring the e-mail to
contain a valid toll-free telephone number, physical postal
26 address and a return e-mail address maintained by the sender to
which the recipient may respond indicating that the recipient
28 does not wish to receive further unsolicited commercial e-mail
from the sender. The restriction does not apply to e-mail sent
30 to persons with whom the sender has a prior relationship or who
have requested the information from the sender. Unsolicited
32 commercial e-mail would need to include in the subject line a
label, as specified, so that recipients are made aware of the
34 nature of the e-mail. Each unsolicited commercial e-mail sent to
a recipient in violation is considered an unfair trade practice.