

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 1989

S.P. 783

December 18, 2007

An Act To Clarify Maine's "Do Not Call" Laws

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 18, 2007. Referred to the Committee on Utilities and Energy pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BARTLETT of Cumberland.

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

2 **Sec. 1. 10 MRSA §1499-B, sub-§1, ¶D-1** is enacted to read:

3 D-1. "Established business relationship" means a prior or existing relationship
4 formed by a voluntary 2-way communication between a telephone solicitor and a
5 consumer with or without an exchange of consideration on the basis of the
6 consumer's purchase from or transaction with the telephone solicitor within the 18
7 months immediately preceding the date of a telephone sales call or on the basis of the
8 consumer's inquiry or application regarding products or services offered by the
9 telephone solicitor within the 3 months immediately preceding the date of the call as
10 long as the relationship has not been previously terminated by either party.

11 (1) The consumer's request not to be solicited by telephone registered pursuant to
12 subsection 4 terminates an established business relationship for purposes of a
13 telephone sales call even if the consumer continues to do business with the
14 telephone solicitor.

15 (2) The consumer's established business relationship with a particular telephone
16 solicitor does not extend to affiliates of the telephone solicitor unless the
17 consumer would reasonably expect them to be included given the nature and type
18 of goods or services offered by the affiliate and the identity of the affiliate.

19 **Sec. 2. 10 MRSA §1499-B, sub-§2,** as enacted by PL 2007, c. 227, §2, is
20 amended to read:

21 **2. Application.** This section does not apply to:

22 A. A telephone sales call made in response to and at the express request of the
23 person called;

24 B. A telephone sales call made primarily in connection with an existing debt or
25 contract for which payment or performance has not been completed at the time of the
26 call; or

27 C. A telephone sales call for a solicitation other than a commercial solicitation, but
28 only if:

29 (1) The telephone call is made by a volunteer or an employee of the soliciting
30 organization; and

31 (2) The telephone solicitor who makes the telephone call immediately discloses
32 all of the following information:

33 (a) The solicitor's true first and last name; and

34 (b) The name, address and telephone number of the soliciting organization;
35 or

36 D. A telephone sales call made to any person with whom the telephone solicitor has
37 an established business relationship.

1 **Sec. 3. 10 MRSA §1499-B, sub-§6**, as enacted by PL 2007, c. 227, §2, is
2 amended to read:

3 **6. Telephone solicitation violations.** It is a violation of this section for a telephone
4 solicitor to initiate a telephone sales call to a consumer if that consumer's telephone
5 number has been on the national or state do-not-call registry, established by the Federal
6 Trade Commission, for at least 3 months prior to the date the call is made. It is an
7 affirmative defense in any action brought under this subsection that the defendant has
8 established and implemented, with due care, reasonable practices and procedures to
9 effectively prevent telephone solicitations in violation of this section.

10

SUMMARY

11 This bill restores an affirmative defense provision to Maine's "Do Not Call" laws and
12 adds an exemption from the application of the statute for telephone calls made to any
13 person with whom the caller has an established business relationship.