

FILED MAR 13 1979

SENATE FILE

438

BY FINK

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act restricting the use of certain telemarketing equipment,
2 and making a penalty applicable.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 438
COMMERCE

1 Section 1. NEW SECTION. 476B.1 DEFINITIONS.

2 1. "ADAD equipment" means automatic dialing-announcing
3 device equipment, which is a device or system of devices used,
4 either alone or in conjunction with other equipment, for the
5 purpose of automatically selecting or dialing telephone
6 numbers, for disseminating prerecorded messages to the numbers
7 selected or dialed without the use of a live operator.

8 2. "Autodialer" means an automatic telephone dialing
9 system or equipment that has both the capacity to store or
10 produce telephone numbers to be called using a random or
11 sequential number generator, and to dial such numbers.

12 3. "Caller identification" means the display, on the call
13 recipient's telephone or related equipment, of the caller's
14 telephone number or identity to the recipient of the call.

15 4. "Predictive dialing technology" means an automated
16 dialing system or computer software that utilizes a formula or
17 similar mechanism to initiate a certain greater number of
18 telephone calls than the number of telephone solicitors
19 available to speak to prospective customers, with a goal of
20 keeping the available telephone solicitors continually
21 speaking to one prospective customer after another.

22 Sec. 2. NEW SECTION. 476B.2 RESTRICTIONS ON THE USE OF
23 CERTAIN TELEMARKETING EQUIPMENT.

24 1. a. Except as provided in paragraph "b", a person shall
25 not use, employ, or direct another person to use, or contract
26 for the use of, ADAD equipment.

27 b. Except for ADAD equipment that randomly or sequentially
28 selects the telephone numbers for calling, the prohibition in
29 paragraph "a" does not apply to any of the following:

30 (1) Calls made with ADAD equipment by a nonprofit
31 organization or by an individual using the calls other than
32 for commercial profit-making purposes or fund-raising, if the
33 calls do not involve the advertisement or offering for sale,
34 lease, or rental of goods, services, or property.

35 (2) Calls made with ADAD equipment relating to payment

1 for, service of, or warranty coverage of previously ordered or
2 purchased goods or services or to persons or organizations
3 with a prior business relationship with the persons or
4 organizations using the calls.

5 (3) Calls made with ADAD equipment relating to the
6 collection of lawful debts.

7 (4) Calls made with ADAD equipment to members or employees
8 of the organization making the calls.

9 (5) Calls made with ADAD equipment that use an initial
10 prerecorded message of a duration no greater than seven
11 seconds prior to a live operator intercept, or calls that
12 involve an initial message from a live operator.

13 2. A caller shall not do any of the following:

14 a. Operate ADAD equipment, predictive dialing technology,
15 or an autodialer in a manner that intentionally impedes or
16 prevents the function of a recipient's caller identification
17 if the caller's existing equipment is capable of allowing the
18 display of the caller's telephone number or identity.

19 b. Operate any ADAD equipment, predictive dialing
20 technology, or an autodialer acquired on or after July 1,
21 2001, that is incapable of allowing the display of the
22 caller's telephone number or identity.

23 3. Calls made with ADAD equipment must terminate the
24 connection with any call within ten seconds after the person
25 receiving the call acts to disconnect the call.

26 4. A violation of this section is a serious misdemeanor.

27 Sec. 3. Section 476.57, Code 2001, is repealed.

28 EXPLANATION

29 This bill creates new Code chapter 476B regulating
30 telemarketing.

31 The bill adds new Code section 476B.2, regarding
32 restrictions on the use of certain telemarketing equipment,
33 including ADAD equipment and predictive dialing technology.
34 Much of the content of new Code section 476B.2 is contained in
35 current Code section 476.57, which is repealed as a result of

1 its move to the new Code section in the new Code chapter. A
2 person is prohibited from using ADAD equipment to deliver
3 prerecorded messages, except for certain specified exceptions,
4 such as certain calls by nonprofit organizations, calls
5 relating to previously ordered goods or services, debt
6 collection, calls to employees, and calls with an initial
7 message from a live operator or a prerecorded message of less
8 than seven seconds. Calls made with ADAD equipment must
9 terminate the connection within 10 seconds after the call
10 recipient acts to disconnect the call.

11 A caller may not operate ADAD equipment or predictive
12 dialing technology in a manner that intentionally impedes or
13 prevents a call recipient's caller identification from
14 functioning.

15 A violation of Code section 476B.2 is a serious
16 misdemeanor, the same penalty as under current Code section
17 476.57.

18 Definitions are added in new Code section 476B.1 for "ADAD
19 equipment", "autodialer", "caller identification", and
20 "predictive dialing technology".

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