

H. 2/21/00 Do Pass  
H. 3/21/00 Removed from Calendar

JAN 12 2000

COMMERCE AND REGULATION

HOUSE FILE

2041

BY MARTIN

1-20-00 Sponsor added - Davis

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act prohibiting a person from using automatic dialing-  
2 announcing device equipment in a manner that impedes or  
3 prevents the function of caller identification.

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

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**HOUSE FILE 2041**

**H-8168**

1 Amend House File 2041 as follows:

2 1. Page 2, line 6, by inserting after the word  
3 "that" the following: "intentionally".

4 2. Title page, line 2, by inserting after the  
5 word "that" the following: "intentionally".

By RAECKER of Polk

H-8168 FILED MARCH 2, 2000

H.F. 2041

1 Section 1. Section 476.57, subsections 1 and 2, Code 1999,  
2 are amended to read as follows:

3 1. ~~DEFINITION~~ DEFINITIONS. As used in this section,  
4 unless the context otherwise requires:

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

11 b. "Caller identification" means the display of the  
12 caller's telephone number or identity to the recipient of the  
13 call.

14 2. PROHIBITION.

15 a. Except as provided in paragraph "b", a person shall not  
16 use, employ, or direct another person to use, or contract for  
17 the use of ADAD equipment.

18 b. Except for ADAD equipment which randomly or  
19 sequentially selects the telephone numbers for calling, the  
20 prohibition in paragraph "a" does not apply to any of the  
21 following:

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

27 (2) Calls made with ADAD equipment relating to payment  
28 for, service of, or warranty coverage of previously ordered or  
29 purchased goods or services or to persons or organizations  
30 with a prior business relationship with the persons or  
31 organizations using the calls.

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

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

1 (5) Calls made with ADAD equipment which use an initial  
2 prerecorded message of a duration no greater than seven  
3 seconds prior to a live operator intercept, or calls which  
4 involve an initial message from a live operator.

5 c. Notwithstanding paragraph "b", ADAD equipment shall not  
6 be operated in a manner that impedes or prevents the function  
7 of a recipient's caller ID when the caller's equipment is  
8 capable of allowing the display of the caller's telephone  
9 number or identity.

10 EXPLANATION

11 This bill provides that a person using ADAD (automatic  
12 dialing-announcing device) equipment is prohibited from using  
13 equipment in a manner that impedes or prevents the function of  
14 a recipient's caller ID when the caller's ADAD equipment is  
15 capable of allowing the display of the caller's telephone  
16 number or identity. A person violating this provision is  
17 guilty of a serious misdemeanor, as provided under current law  
18 for a violation of Code section 476.57.

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HOUSE FILE 2041

H-8088

1 Amend House File 2041 as follows:

2 1. Page 2, line 9, by inserting after the word  
3 "identity." the following: "However, this paragraph  
4 does not prohibit the use of equipment by the caller  
5 which tends to more accurately identify the person on  
6 whose behalf the call is being made."

By RAECKER of Polk

H-8088 FILED FEBRUARY 29, 2000

HOUSE FILE 2041

H-8097

1 Amend House File 2041 as follows:

2 1. Page 2, line 7, by striking the words "caller  
3 ID" and inserting the following: "caller  
4 identification".

5 2. Page 2, by inserting after line 9 the  
6 following:

7 "d. Notwithstanding paragraph "b", a person who  
8 uses or employs ADAD equipment as provided in this  
9 section shall identify the person within the first  
10 fifteen seconds of a call and provide the recipient of  
11 the call with the name and telephone number of a  
12 person whom the recipient may call to request that no  
13 further calls be made to the recipient."

By HOLVECK of Polk

RAECKER of Polk

H-8097 FILED FEBRUARY 29, 2000

HOUSE FILE 2041

H-8113

1 Amend House File 2041 as follows:

2 1. Page 2, by inserting after line 9 the  
3 following:

4 "d. (1) Notwithstanding paragraph "b", a  
5 telemarketer shall not use ADAD equipment or any  
6 similar equipment to make telephonic sales calls where  
7 the number of live telemarketers is less than the  
8 number of telephonic sales calls dialed by such  
9 equipment, and where the number of telemarketers would  
10 be insufficient to engage in the telephonic sales  
11 calls if all calls made by such equipment result in a  
12 completed call to the numbers dialed.

13 (2) A person who violates subsection 2 is subject  
14 to a civil penalty in the same manner as provided in  
15 section 476.51 with regard to a public utility.

16 (3) For purposes of this paragraph, unless the  
17 context otherwise requires:

18 (a) "Telemarketer" means a person who makes  
19 telephonic sales calls.

20 (b) "Telephonic sales call" means a call made by a  
21 telemarketer to a consumer for any of the following  
22 purposes:

23 (i) To solicit a sale of a consumer good or  
24 service.

25 (ii) To solicit an extension of credit for a  
26 consumer good or service.

27 (iii) To obtain information that will or may be  
28 used for the direct solicitation of a sale of a  
29 consumer good or service or an extension of credit for  
30 such purpose."

By SCHRADER of Marion

H-8113 FILED FEBRUARY 29, 2000

HOUSE FILE 2041

H-8169

1 Amend House File 2041 as follows:

2 1. Page 2, by inserting after line 9 the  
3 following:

4 "Sec. \_\_\_\_ . Section 476.57, subsection 4, Code  
5 1999, is amended to read as follows:

6 4. CRIMINAL PENALTY. A violation of this section  
7 is a serious misdemeanor.

8 5. CIVIL ENFORCEMENT. A violation of this section  
9 is a violation of section 714.16, subsection 2,  
10 paragraph "a". The remedies and penalties provided by  
11 section 714.16, including but not limited to  
12 injunctive relief and civil penalties, apply to a  
13 violation of this section. In seeking reimbursement  
14 pursuant to section 714.16, subsection 7, from a  
15 person who has violated this section, the attorney  
16 general may seek an order from the court that the  
17 person pay to the attorney general on behalf of  
18 consumers the amounts for which the person would be  
19 liable under subsection 6 for each consumer who has a  
20 cause of action pursuant to subsection 6. Section  
21 714.16, as it relates to consumer reimbursement,  
22 applies to amounts recovered by the attorney general  
23 as reimbursement under this section. However, a  
24 consumer who is awarded monetary damages pursuant to  
25 subsection 6 is not eligible for monetary relief under  
26 this subsection for the same violation.

27 6. PRIVATE CIVIL ACTION. A consumer who receives  
28 a telephonic sales call which fails to comply with  
29 this section may bring an action against the person or  
30 entity on whose behalf the telemarketing call was  
31 placed, to recover both of the following:

32 a. The greater of the consumer's actual damages,  
33 or an amount not less than five hundred dollars but no  
34 greater than two thousand dollars.

35 b. Costs and reasonable attorney fees.

36 Sec. \_\_\_\_ . DIRECTIONS TO CODE EDITOR. The Code  
37 editor shall recodify section 476.57, as amended by  
38 this Act, to be a new section in a new chapter 476B."

39 2. By renumbering as necessary.

By RAECKER of Polk

H-8169 FILED MARCH 3, 2000

HOUSE FILE 2041

H-8346

1 Amend the amendment, H-8113, to House File 2041, as  
2 follows:

3 1. Page 1, by striking lines 6 through 12 and  
4 inserting the following: "similar equipment to make  
5 telephonic sales calls when the number of live  
6 telemarketers would be insufficient to permit a live  
7 telemarketer to engage in each telephonic sales call  
8 made within two seconds of the time each such call is  
9 answered."

By SCHRADER of Marion

H-8346 FILED MARCH 14, 2000