

Referred back to Comm. from Reg. Calendar

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SENATE FILE **2343**
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 2233)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing certain disclosure requirements associated
2 with telephone solicitations and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 2343

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1 Section 1. NEW SECTION. 476B.1 TELEPHONE SOLICITATION
2 RESTRICTIONS -- DISCLOSURES.

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

5 a. "Board" means the utilities board created in section
6 474.1.

7 b. "Telephone solicitation" means a solicitation made by a
8 person using a telephone, videoconferencing, or other
9 interactive electronic voice communication, for the purpose of
10 selling consumer goods or services to a consumer who is the
11 recipient of such solicitation.

12 c. "Telephone transaction" means either of the following:

13 (1) A telephone solicitation.

14 (2) A purchase contract or other agreement or dealing that
15 results from a telephone solicitation.

16 2. A person who engages in a telephone solicitation,
17 before asking any questions of or making any statements other
18 than an initial greeting to a consumer, shall disclose all of
19 the following:

20 a. The name of the individual making the telephone
21 solicitation.

22 b. A statement that the telephone solicitation is for the
23 purpose of offering or promoting the sale of consumer goods or
24 services.

25 c. The name of the principal seller of the consumer goods
26 or services.

27 d. The nature of the goods or services which are being
28 offered or promoted.

29 3. A person, in a telephone transaction, shall also
30 disclose to a consumer before such consumer enters into any
31 purchase contract or other agreement or dealing, and before
32 the person requests a credit card number or accepts any
33 payment from the consumer, all of the following:

34 a. The nature and quantity of the consumer goods or
35 services included.

1 b. The total cost to the consumer to purchase such goods
2 or services.

3 c. All material terms and conditions affecting the sale,
4 receipt, or use of the consumer goods or services, including
5 credit terms, if any.

6 d. The name of the principal seller.

7 e. At least one of the following:

8 (1) The mailing address of the principal seller.

9 (2) A local or toll-free telephone number, answered during
10 regular business hours, at which the consumer may contact the
11 principal seller and obtain the principal seller's address.

12 f. The seller's policy regarding a refund, cancellation,
13 exchange, or repurchase, if either of the following apply:

14 (1) The seller has a policy that prevents or substantially
15 limits refunds, cancellations, exchanges, or repurchases.

16 (2) The seller makes a claim or representation regarding
17 refunds, cancellations, exchanges, or repurchases.

18 4. A disclosure required under subsection 3 shall be made
19 in writing, except that such disclosure may be made orally if
20 either of the following apply:

21 a. The seller confirms the disclosures in writing at or
22 before the time the seller first delivers the consumer goods
23 or services to the consumer, and before the seller submits any
24 credit card request for payment or takes any other payment
25 from the consumer.

26 b. The seller does both of the following in writing at or
27 before the time the seller first delivers consumer goods or
28 services to the consumer:

29 (1) Confirms the oral disclosures.

30 (2) Discloses that the consumer may cancel the sale after
31 the first delivery of any consumer goods or services and
32 obtain a full refund. The seller may specify a cancellation
33 deadline, provided that the deadline is no less than seven
34 days after the date of the first delivery.

35 5. The board shall investigate any complaints received

1 concerning a violation of this section. If, after
2 investigating a complaint, the board finds that there has been
3 a violation of this section, the board may bring an action
4 against the person engaging in the telephone solicitation or
5 the principal seller, as appropriate, to impose a civil
6 penalty not to exceed ten thousand dollars per violation, and
7 to seek other relief, including injunctive relief, as the
8 court deems appropriate.

9 6. The board shall adopt rules to implement this section.

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EXPLANATION

11 This bill imposes certain disclosure requirements on
12 persons who engage in telephone solicitations for the sale of
13 consumer goods and services.

14 The bill provides that a person who engages in a telephone
15 solicitation, before asking any questions of or making any
16 statements other than an initial greeting to a consumer, must
17 disclose the name of the individual making the telephone
18 solicitation, a statement that the telephone solicitation is
19 for the purpose of offering or promoting the sale of consumer
20 goods or services, the name of the principal seller of the
21 consumer goods or services, and the nature of the goods or
22 services which are being offered or promoted.

23 The bill provides that a person, in a telephone
24 transaction, must also disclose to a consumer before such
25 consumer enters into any purchase contract or other agreement
26 or dealing, and before the person requests a credit card
27 number or accepts any payment from the consumer, the nature
28 and quantity of the consumer goods or services included; the
29 total cost to the consumer to purchase such goods or services;
30 all material terms and conditions affecting the sale, receipt,
31 or use of the consumer goods or services, including credit
32 terms, if any; the name of the principal seller; the mailing
33 address of the principal seller or a local or toll-free
34 telephone number, answered during regular business hours, at
35 which the consumer may contact the principal seller and obtain

1 the principal seller's address; and the seller's policy
2 regarding a refund, cancellation, exchange, or repurchase, if
3 the seller has a policy that prevents or substantially limits
4 refunds, cancellations, exchanges, or repurchases, or the
5 seller makes a claim or representation regarding refunds,
6 cancellations, exchanges, or repurchases.

7 The bill also provides that the utilities board is to
8 investigate any complaints received concerning a violation of
9 this section. If, after investigating a complaint, the board
10 finds that there has been a violation of this section, the
11 board may bring an action against the person engaging in the
12 telephone solicitation or the principal seller, as
13 appropriate, to impose a civil penalty not to exceed \$10,000
14 per violation, and to seek other relief, including injunctive
15 relief, as the court deems appropriate.

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