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SENATE FILE 2256
BY McCOY

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

A BILL FOR

1 An Act relating to telephone solicitations, and providing for a
2 civil penalty.

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

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SF 2256
COMMERCE

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

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Basic local telephone service" means the same as
5 defined in section 476.96.

6 2. "Nonresidential customer" means a person, other than a
7 residential customer, who is furnished with telecommunications
8 service by a telecommunications utility.

9 3. "Nonsolicitation directory" means the directory
10 established under section 476B.2.

11 4. "Residential customer" means an individual who is
12 furnished with basic local telephone service by a
13 telecommunications utility, but does not include an individual
14 who operates a business at the individual's residence.

15 5. "Telephone solicitation" means the unsolicited
16 initiation of a telephone conversation for the purpose of
17 encouraging the recipient of the telephone call to purchase
18 goods or services.

19 6. "Telephone solicitor" means a person, other than a
20 nonprofit organization or an employee or contractor of a
21 nonprofit organization, that employs or contracts with an
22 individual to make a telephone solicitation. For purposes of
23 this chapter, "telephone solicitor" includes both the employer
24 and the employee actually making the telephone call.

25 Sec. 2. NEW SECTION. 476B.2 NONSOLICITATION DIRECTORY --
26 LISTING.

27 1. The secretary of state shall adopt rules for
28 establishing, maintaining, and semiannually updating a
29 directory that includes listings of residential customers who
30 do not wish to receive telephone solicitations made by
31 telephone solicitors. The rules adopted pursuant to this
32 section shall establish requirements and procedures for a
33 residential customer to request a listing in the
34 nonsolicitation directory. Upon request by a residential
35 customer, the secretary of state shall include in the

1 nonsolicitation directory a listing indicating that the
2 residential customer does not want to receive any telephone
3 solicitation made by a telephone solicitor. The rules shall
4 also require a residential customer who requests a listing in
5 the directory to notify the secretary of state on a biennial
6 basis if the residential customer wishes to continue to be
7 included in the directory. The secretary of state shall
8 eliminate a residential customer from the directory if the
9 customer does not make the biennial notification.

10 2. Except for copies of the nonsolicitation directory that
11 are provided to registered telephone solicitors, the
12 nonsolicitation directory is not subject to inspection,
13 copying, or receipt and may not be released by the secretary
14 of state, notwithstanding any Code provision to the contrary.

15 3. The secretary of state shall, on a semiannual basis,
16 make the nonsolicitation directory available by electronic
17 transmission only to telephone solicitors who are registered
18 under section 476B.3. Upon the request of a telephone
19 solicitor registered under section 476B.3, the secretary of
20 state shall also provide a printed copy of the nonsolicitation
21 directory to the telephone solicitor. A telephone solicitor
22 who receives a copy of the directory, or to whom the directory
23 is made available by electronic transmission under this
24 paragraph, may not solicit or accept from any person, directly
25 or indirectly, anything of value in exchange for providing the
26 person with any information included in the directory, and
27 shall not otherwise divulge the information in the directory
28 to a third party.

29 Sec. 3. NEW SECTION. 476B.3 REGISTRATION OF TELEPHONE
30 SOLICITORS -- LIMITATIONS ON TELEPHONE SOLICITORS.

31 1. The secretary of state shall adopt rules that require
32 any telephone solicitor who requires an employee or contractor
33 to make a telephone solicitation to a residential customer in
34 this state to register with the department, obtain a
35 registration number from the department, and pay a

1 registration fee to the department. The amount of the
2 registration fee shall be based on the cost of establishing
3 the nonsolicitation directory, and the amount that an
4 individual telephone solicitor is required to pay shall be
5 based on the number of telephone lines used by the telephone
6 solicitor to make telephone solicitations. The rules shall
7 also require a telephone solicitor that registers with the
8 department to pay an annual registration renewal fee to the
9 department. The amount of the registration renewal fee shall
10 be based on the cost of maintaining the nonsolicitation
11 directory.

12 2. A telephone solicitor may not do either of the
13 following:

14 a. Make a telephone solicitation to a person in this state
15 unless the telephone solicitor is registered with the
16 secretary of state under the rules adopted pursuant to this
17 section.

18 b. Make a telephone solicitation that does any of the
19 following:

20 (1) Uses an electronically prerecorded message in
21 telephone solicitation without the consent of the recipient of
22 the telephone call.

23 (2) Makes a telephone solicitation to a residential
24 customer if the nonsolicitation directory that is provided or
25 made available to the telephone solicitor under section 476B.2
26 includes a listing for the residential customer.

27 (3) Makes a telephone solicitation to a nonresidential
28 customer if the nonresidential customer has provided notice by
29 mail to the telephone solicitor that the nonresidential
30 customer does not wish to receive telephone solicitations.

31 Sec. 4. NEW SECTION. 476B.4 REQUIRED DISCLOSURES.

32 1. An individual who makes a telephone solicitation shall
33 identify at the beginning of the telephone conversation each
34 of the following:

35 a. The name of the telephone solicitor making the call.

1 b. If different than the telephone solicitor, the person
2 selling the goods or services, or receiving the contribution,
3 donation, grant, or pledge of money, credit, property, or
4 other thing of any kind, that is the reason for the telephone
5 solicitation.

6 2. A telephone solicitor that makes a telephone
7 solicitation to a nonresidential customer shall, upon the
8 request of the nonresidential customer, provide the mailing
9 address for notifying the telephone solicitor that the
10 nonresidential customer does not wish to receive telephone
11 solicitations.

12 Sec. 5. NEW SECTION. 476B.5 EXCEPTIONS.

13 A telephone solicitation that satisfies either of the
14 following is not subject to this chapter:

15 1. The telephone solicitation is made to a recipient in
16 response to the recipient's request for the telephone
17 solicitation.

18 2. The telephone solicitation is made to a recipient who
19 is a current client of the person selling the goods or
20 services. This paragraph does not allow affiliates of the
21 person selling the goods or services to make a telephone
22 solicitation unless the recipient is also a current client of
23 such affiliate.

24 Sec. 6. NEW SECTION. 476B.6 TERRITORIAL APPLICATION.

25 This chapter applies to any interstate telephone
26 solicitation received by a person in this state and to any
27 intrastate telephone solicitation received by a person in this
28 state.

29 Sec. 7. NEW SECTION. 476B.7 ENFORCEMENT.

30 The attorney general may bring an action for temporary or
31 permanent injunctive or other relief for any violation of this
32 chapter.

33 Sec. 8. NEW SECTION. 476B.8 PENALTY.

34 A person who violates any provision of this chapter shall
35 be required to pay a civil penalty of one hundred dollars for

1 each violation.

2 EXPLANATION

3 This bill creates a new Code chapter pertaining to
4 telephone solicitations.

5 New Code section 476B.2 requires the secretary of state to
6 create a nonsolicitation directory that lists the residential
7 telephone customers who have indicated they do not want to
8 receive any telephone solicitations. The directory is updated
9 semiannually, and residential customers must reaffirm their
10 intent to remain on the list every two years, or else be
11 deleted from the list. The list is provided only to
12 registered telephone solicitors, primarily in electronic
13 format, but also in printed format upon request. The
14 telephone solicitor may not sell the information.

15 New Code section 476B.3 requires all telephone solicitors
16 to register and pay a fee. The fees paid will be based on the
17 cost of maintaining the nonsolicitation directory. Telephone
18 solicitors are prohibited from making a telephone solicitation
19 without registering, making a telephone solicitation that uses
20 an electronically prerecorded message without the recipient's
21 consent, making a telephone solicitation to a residential
22 customer on the nonsolicitation directory, and making a
23 telephone solicitation to a nonresidential customer who has
24 provided notice by mail to the telephone solicitor that the
25 nonresidential customer does not wish to receive telephone
26 solicitations.

27 The telephone solicitor is required to disclose at the
28 beginning of the call the name of the telephone solicitor
29 making the call and the name of the person selling the goods
30 or services. The telephone solicitor also, upon the request
31 of a nonresidential customer, shall provide the mailing
32 address for notifying the telephone solicitor that the
33 nonresidential customer does not wish to receive telephone
34 solicitations.

35 Telephone solicitations made to existing clients or in

1 response to requests are not subject to new Code chapter 476B.

2 New Code chapter 476B applies to intrastate telephone
3 solicitations and interstate telephone solicitations received
4 by an Iowa resident.

5 A violation of new Code chapter 476B is punishable by a
6 civil penalty of \$100 for each violation. The attorney
7 general may bring an action for a temporary or permanent
8 injunction or other relief for any violation.

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