

HB 3865 A -A3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 4/24, 5/19, 5/21

WHAT THE MEASURE DOES:

This measure expands the definition of telephone solicitation to include text messages and restricts the time, frequency, and manner of telephone solicitations.

Detailed Summary:

- Expands the definition of "telephone solicitation" in ORS 646.651 to include a call on a telephone or telephone line, a text message sent via a standard telephone network, an electronic mail sent as a text message, or a message sent using rich communication services protocol.
- Renders it an unlawful practice under Oregon's Unlawful Trade Practices Act for a person to initiate a telephone solicitation outside the quiet hours of 9 a.m. to 7 p.m. or more than three times in 24 hours; for a person making a telephone solicitation to misrepresent or falsify their identity, number or location, or purpose; or for a person to omit specified disclosures for telephone solicitations by message.
- Limits the use of automatic dialing and announcing devices to call a subscriber between the hours of 9 a.m. and 7 p.m.
- Takes effect on the 91st day following adjournment sine die.

HOUSE VOTE: Ayes, 35; Nays, 16

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

ISSUES DISCUSSED:

- Application of Unlawful Trade Practices Act to business interests only
- Prevalence of solicitations
- Federal and other states' law
- Unintended consequences of extending law from phone calls to texting, especially rich communications services protocol (RCS)
- Difficulties of compliance with quiet hours in light of different time zones and unknown location of recipients
- Potential conflicts with federal law

EFFECT OF AMENDMENT:

-A3 This amendment modifies quiet hours, simplifies the definition of "text message," exempts certain solicitations from the Unlawful Trade Practices Act, and makes technical changes.

- Includes "text message" within definition of "telephone solicitation" without specifying a particular texting technology, protocol, or format.
- Adds the definition of "established business relationship" to ORS 646.561.
- Exempts calls or texts made in direct response to a message received.
- Changes quiet hours, requiring solicitations to be made between 8 am and 8 pm.
- Allows solicitations outside of quiet hours and in excess of three times in a day if the solicitor has an established business relationship with the customer.
- Allows a solicitor to rely on a customer's area code to determine the customer's location.
- Exempts auto-dialer callers from time and frequency limitations in regard to established business relationships, debt buyers subject to the Fair Debt Collection Practices Act, public safety or law enforcement

agencies, school districts, and direct responses to a customer's message.

- Renders the effective date as January 1, 2026.

FISCAL: Has minimal fiscal impact

REVENUE: No revenue impact

BACKGROUND:

Telephone solicitation refers to the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services. However, certain exceptions apply, such as calls made with prior express invitation or permission, calls to individuals with whom the caller has an established business relationship, calls by nonprofit organizations, or calls limited to polling or soliciting the expression of ideas, opinions, or votes. ORS 646.561.