

## HB 3865 B -B4, -B6 STAFF MEASURE SUMMARY

### Senate Committee On Rules

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**Meeting Dates:** 6/12, 6/16

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#### WHAT THE MEASURE DOES:

This measure expands the definitions of telephone solicitations and auto-dialers to include text messages and restricts the time, frequency, and manner of such solicitations.

#### Detailed Summary:

- Expands the ORS 646.651 definition of "telephone solicitation" to include a text message.
- Exempts calls or texts directly responding to a message from the definition of "telephone solicitations."
- Renders it an unlawful practice under Oregon's Unlawful Trade Practices Act (UTPA) for a person to initiate a telephone solicitation outside the hours of 8 a.m. to 8 p.m. or more than three times in 24 hours; to misrepresent or falsify the person's identity, number, location, or purpose in a telephone solicitation; or to omit specified disclosures for telephone solicitations by text message.
- Defines "established business relationship" as a transaction(s) within the preceding 18 months between the solicitor and recipient.
- Exempts those with an established business relationship from time and frequency limitations.
- Adds text messages to Oregon's existing limitations on automatic dialing and announcing devices (auto-dialers) and prohibits the use of such devices outside the hours of 8 a.m. to 8 p.m. or more than three times in 24 hours.
- 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 a direct response to a message received.
- Allows a telephone solicitor or auto-dialer caller to rely on a customer's area code to determine their location.

#### ISSUES DISCUSSED:

- Stakeholder input and compromises
- Comparable laws in other states and federally
- Interaction with laws prohibiting contact with individuals on do not call lists
- Lack of a provision allowing a solicitor to contact an individual who has indicated consent
- Significance and legal effect of an established business relationship

#### EFFECT OF AMENDMENT:

-B4 The amendment eliminates from the measure two of the bases for an Unlawful Trade Practices Act claim. First, the amendment removes as an unlawful trade practice a solicitor's misrepresentation or falsification of their telephone number or location. Second, the amendment removes as an unlawful trade practice a solicitor's failure to make specified disclosures in text message solicitations.

-B6 This amendment expands the definition of "established business relationship" and adds this definition to Oregon's statutes concerning do not call lists and auto-dialers.

- Expands the definition of "established business relationship" to include an individual's express invitation or permission to receive a telephone solicitation and makes a conforming amendment to the definition of "telephone solicitation."
- Limits Unlawful Trade Practices Act claims in regard to telephone solicitations to the same bases as the B4 amendment.

- Amends ORS 646.567, in regard to do not call lists, and ORS 646A.370, in regard to auto-dialers, to include the same definition of “established business relationship.”
- Allows calls to an individual on a do not call list who has either an established business relationship with or who made a previous purchase from the solicitor.
- Removes associated language, as a conforming amendment, from the definition of “telephone solicitation,” language that allows calls to an individual on a do not call list who made a previous purchase from the solicitor.

**BACKGROUND:**

Telephone solicitation refers to the initiation of a telephone call for the purpose of encouraging the purchase of property, goods, or services. ORS 646.561. Oregon law excludes from the definition of "telephone solicitation" certain calls by charitable organizations; calls limited to polling or soliciting the expression of ideas, opinions, or votes; or calls between businesses. *Id.* Oregon law renders it an unlawful trade practice under the UTPA for a telephone solicitor to make a subsequent call to a party who has stated their desire not to be called again. ORS 646.563. House Bill 3865 B creates additional bases pursuant to which a telephone solicitation is an unlawful trade practice.