

## HB 3865 B STAFF MEASURE SUMMARY

### Senate Committee On Judiciary

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**Action Date:** 05/21/25

**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)

**Vote:** 4-2-0-0

**Yeas:** 4 - Broadman, Gelser Blouin, Manning Jr, Prozanski

**Nays:** 2 - McLane, Thatcher

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Kris Kolta, LPRO Analyst

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

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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:

- 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:

This amendment modifies quiet hours, simplifies the definition of text message, exempts certain solicitations from the Unlawful Trade Practices Act (UTPA), 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.

## **HB 3865 B    STAFF MEASURE SUMMARY**

- Exempts calls or texts made in direct response to a message received.
- Changes quiet hours, requiring solicitations to be made between 8 a.m. and 8 p.m.
- 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.
- 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.
- Allows a telephone solicitor or a caller using an auto-dialer to rely on a customer's area code to determine their location.
- Removes the measure's special effective date .

### **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.