

## B-Engrossed House Bill 3865

Ordered by the Senate June 4  
Including House Amendments dated April 4 and Senate Amendments  
dated June 4

Sponsored by Representative SOSA; Representatives CHAICHI, GOMBERG, NELSON, Senators JAMA, MANNING JR, PATTERSON, PHAM K

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Says that a person may not make a sales call by voice or text unless the person follows certain rules. (Flesch Readability Score: 80.7).

Prohibits as an unlawful practice under the Unlawful Trade Practices Act a person's initiating a telephone solicitation outside specified hours or more than three separate times within a 24-hour period, misrepresenting or falsifying the person's identity, the purpose of the call or the location from which the person is calling or failing to make required disclosures or inquiries during the call. Includes text messaging [*and other data messaging*] within the definition of "telephone solicitation."

[*Takes effect on the 91st day following adjournment sine die.*]

### A BILL FOR AN ACT

Relating to telephone solicitations; amending ORS 646.561, 646.563, 646A.370, 646A.372 and 646A.374.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 646.561 is amended to read:

646.561. As used in ORS 646.561 to 646.565[, *unless the context otherwise requires*]:

(1) "Charitable organization" means an organization organized for charitable purposes as defined in ORS 128.801.

(2) "Established business relationship" means a previous transaction or series of transactions between a caller and a party that occurred within the 18 months that preceded a call.

[(2)] (3) "Party" means a telephone customer of a telecommunications company.

[(3)] (4)(a) "Telephone solicitation" means [*the*] a solicitation [*by telephone by any person of a party*] for the purpose of encouraging [*the*] a party to purchase real estate, goods or services, or to make a donation[.], **made to the party by means of:**

(A) A call on a telephone or telephone line; or

(B) A text message.

(b) "Telephone solicitation" does not include:

[(a)] (A) [*Calls made by*] A call or text message that a charitable organization, a public agency or volunteers on behalf of the organization or agency **makes or sends** to members of the organization or agency or to persons who have made a donation or expressed an interest in making a donation to the organization or agency;

[(b)] (B) [*Calls*] A call or text message that is limited to polling or soliciting the expression of ideas, opinions or votes; [*or*]

[(c)] (C) A business to business [*contacts.*] call or text message; or

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

(D) A call or text message that responds directly to a message received from a party.

**SECTION 2.** ORS 646.563 is amended to read:

646.563. (1) A person engages in an unlawful practice if[,]:

(a) During a telephone solicitation, the called **or texted** party states a desire not to be called **or texted** again and the person making the telephone solicitation makes a subsequent telephone solicitation of the called **or texted** party at that number.

(b) The person initiates a telephone solicitation outside the hours of 8 a.m. to 8 p.m. or initiates a solicitation more than three separate times to a party within a 24-hour period, unless the person has an established business relationship with the party.

(c) The person during a telephone solicitation misrepresents or falsifies:

(A) The person's identity or the identity of another person on behalf of which the person makes the telephone solicitation;

(B) The telephone number or location from which the person is calling to make the telephone solicitation; or

(C) The purpose of the telephone solicitation.

(d) The person makes a telephone solicitation by means of a text message and does not make the disclosures and inquiries specified in ORS 646.611 (1)(a), (b), (c) and (d).

(2) For the purpose of complying with the requirements of this section, a person may rely on the area code of a telephone number for a mobile telephone to determine whether the telephone number is for a party located in this state.

**SECTION 3.** ORS 646A.370 is amended to read:

646A.370. As used in ORS 646A.370 to 646A.374:

(1) "Automatic dialing and announcing device" means an automated device that selects and dials telephone numbers and that, working alone or in conjunction with **a person or** another device, disseminates a prerecorded or synthesized voice **or text** message to the telephone number that the device calls.

(2) "Call" means an attempt made to contact or a contact made with a subscriber by means of:

(a) **A call on** a telephone or telephone line[.]; **or**

(b) **A text message.**

(3) "Caller" means a person that attempts to contact or that contacts a subscriber by using a telephone or telephone line.

(4) "Caller identification service" means a telephone service that permits subscribers to see a caller's telephone number before answering the telephone.

(5) "Debt buyer" means a person that engages in the business of purchasing delinquent or charged-off debt for the purpose of collecting the debt.

(6) "Established business relationship" means a previous transaction or series of transactions between a caller and a subscriber that occurred within the 18 months preceding a call.

(7) "Subscriber" means an individual who has obtained residential or wireless telephone services from a telecommunications provider, or a person who resides with the individual.

**SECTION 4.** ORS 646A.372 is amended to read:

646A.372. (1)(a) A caller may not use an automatic dialing and announcing device in order to call a subscriber **by means of a telephone or telephone line** unless:

(A) The device is designed and operated so as to disconnect within 10 seconds after the subscriber terminates the call; and

(B) The device provides, and the prerecorded or synthesized voice message that the device plays

describes, a method by which a subscriber, within the first 10 seconds after a call begins, may enter a single dual-tone multifrequency signal or otherwise enter or speak a one-digit code to notify the caller that the subscriber does not want to receive any future calls from the caller.

(b) Paragraph (a)(B) of this subsection does not apply to a caller that:

(A) Is a collection agency, as defined in ORS 697.005, a debt buyer or a debt collector, as defined in ORS 646.639;

(B) Is a representative of a public safety or law enforcement agency; or

(C) Has an established business relationship with the subscriber.

(2) A caller may not use an automatic dialing and announcing device to make a call unless the range of telephone numbers from which the device chooses the number to dial does not include numbers for:

(a) Fire protection, law enforcement or other emergency agencies;

(b) Hospital and health care facilities, physician's offices, poison control centers or suicide prevention or domestic violence counseling services; and

(c) Subscribers who used the method described in subsection (1)(a)(B) of this section to notify the caller that the subscribers do not want to receive any future calls from the caller.

(3) Subsection (2)(c) of this section does not apply to a caller that:

(a) Is a collection agency, as defined in ORS 697.005, a debt buyer or a debt collector, as defined in ORS 646.639;

(b) Is a representative of a public safety or law enforcement agency; or

(c) Has an established business relationship with the subscriber.

(4)(a) A caller may not use an automatic dialing and announcing device that dials telephone numbers randomly or sequentially unless the range of telephone numbers from which the device chooses the number to dial does not include numbers for subscribers who appear on an official list that a government agency compiled for the purpose of informing potential callers that the subscribers do not want to receive telephone solicitations.

(b) Paragraph (a) of this subsection does not apply to a caller that:

(A) Has an established business relationship with the subscriber;

(B) Is a debt buyer or is subject to regulation under the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq.;

(C) Is a representative of a public safety or law enforcement agency; or

(D) Is a representative of a school district or school if the subscriber is an employee of the school district, a student or the student's parent, guardian or other family member.

(5)(a) A caller that uses an automatic dialing and announcing device may use the device to call a subscriber only between the hours of [9] 8 a.m. and [9 p.m.] 8 p.m. and may not call the subscriber more than three times in 24 hours.

(b) Paragraph (a) of this subsection does not apply to a caller that:

(A) Has an established business relationship with the subscriber;

(B) Is a debt buyer or is subject to regulation under the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq.;

(C) Is a representative of a public safety or law enforcement agency;

(D) Is a representative of a school district or school if the subscriber is an employee of the school district, a student or the student's parent, guardian or other family member; or

(E) Is responding directly to a message received from a subscriber.

(c) For the purpose of complying with the requirements of this subsection, a caller may

1 **rely on the area code of a telephone number for a mobile telephone to determine whether**  
 2 **the telephone number is for a subscriber located in this state.**

3 **SECTION 5.** ORS 646A.374 is amended to read:

4 646A.374. (1) As used in this section:

5 (a) "Cooperative corporation" means a cooperative corporation or unincorporated association  
 6 that has a certificate of authority from the Public Utility Commission under ORS 759.025.

7 (b) "Radio common carrier" has the meaning given that term in ORS 759.005.

8 (c) "Telecommunications service" has the meaning given that term in ORS 759.005.

9 (d) "Telecommunications utility" has the meaning given that term in ORS 759.005.

10 (2) A caller who uses an automatic dialing and announcing device in order to call a subscriber  
 11 may not misrepresent or falsify, [either] in speaking with the subscriber, [or] in the prerecorded or  
 12 synthesized voice message disseminated during the call **or in any text message to the**  
 13 **subscriber:**

14 (a) The caller's identity and the identity of any person on behalf of whom the caller is making  
 15 the call;

16 (b) The telephone number from which the caller is making the call;

17 (c) The location from which the caller is making the call; or

18 (d) The purpose for which the caller is making the call.

19 (3) A caller may not intentionally alter, misrepresent or falsify the information that a caller  
 20 identification service would ordinarily provide to a subscriber who uses such a service.

21 (4) Except as provided in subsection (5) of this section, a person who provides a caller identifi-  
 22 cation service is not subject to civil liability for a caller's violation of this section.

23 (5) If a person knows or consciously avoids knowing that another person is engaging in an act  
 24 or practice that violates the provisions of subsection (2) or (3) of this section and the person none-  
 25 theless provides substantial assistance or support for the violation, including permitting, carrying  
 26 or facilitating calls that violate subsection (2) or (3) of this section, the person is liable for any loss  
 27 and subject to any penalty for the violation to the same extent as the person that engaged in the  
 28 violation of subsection (2) or (3) of this section.

29 (6) A violation of subsection (2) or (3) of this section is an unlawful practice under ORS 646.608.

30 (7) Subsections (5) and (6) of this section do not apply to:

31 (a) A telecommunications utility or cooperative corporation when engaged in providing a tele-  
 32 communications service and operating as a common carrier, as defined in 47 U.S.C. 153(11), as in  
 33 effect on September 24, 2023, including a radio common carrier that engages in providing cellular  
 34 communications services for hire; and

35 (b) A person that enables another person to complete a voice communication by means of a  
 36 network that the person operates and on which the voice communication terminates.