

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3865

By COMMITTEE ON JUDICIARY

June 4

1 On page 1 of the printed A-engrossed bill, line 2, after “646A.374” delete the rest of the line and
2 line 3 and insert a period.

3 Delete lines 5 through 20 and delete page 2.

4 On page 3, delete lines 1 through 43 and insert:

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

6 “646.561. As used in ORS 646.561 to 646.565[, *unless the context otherwise requires*]:

7 “(1) ‘Charitable organization’ means an organization organized for charitable purposes as defined
8 in ORS 128.801.

9 “(2) ‘Established business relationship’ means a previous transaction or series of trans-
10 actions between a caller and a party that occurred within the 18 months that preceded a call.

11 “[2] (3) ‘Party’ means a telephone customer of a telecommunications company.

12 “[3] (4)(a) ‘Telephone solicitation’ means *[the]* a solicitation *[by telephone by any person of a*
13 *party]* for the purpose of encouraging *[the]* a party to purchase real estate, goods or services, or to
14 make a donation[.], **made to the party by means of:**

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

16 “(B) A text message.

17 “(b) ‘Telephone solicitation’ does not include:

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

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

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

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

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

27 “646.563. (1) A person engages in an unlawful practice if[,];

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

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

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

35 “(A) **The person’s identity or the identity of another person on behalf of which the person**

1 **makes the telephone solicitation;**

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

4 **“(C) The purpose of the telephone solicitation.**

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

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

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

11 **“646A.370.** As used in ORS 646A.370 to 646A.374:

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

16 **“(2) ‘Call’** means an attempt made to contact or a contact made with a subscriber by means of:

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

18 **“(b) A text message.**

19 **“(3) ‘Caller’** means a person that attempts to contact or that contacts a subscriber by using a
20 telephone or telephone line.

21 **“(4) ‘Caller identification service’** means a telephone service that permits subscribers to see a
22 caller’s telephone number before answering the telephone.

23 **“(5) ‘Debt buyer’** means a person that engages in the business of purchasing delinquent or
24 charged-off debt for the purpose of collecting the debt.

25 **“(6) ‘Established business relationship’** means a previous transaction or series of transactions
26 between a caller and a subscriber that occurred within the 18 months preceding a call.

27 **“(7) ‘Subscriber’** means an individual who has obtained residential or wireless telephone services
28 from a telecommunications provider, or a person who resides with the individual.

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

30 **“646A.372.** (1)(a) A caller may not use an automatic dialing and announcing device in order to
31 call a subscriber **by means of a telephone or telephone line** unless:

32 **“(A) The device is designed and operated so as to disconnect within 10 seconds after the sub-**
33 **scriber terminates the call; and**

34 **“(B) The device provides, and the prerecorded or synthesized voice message that the device**
35 **plays describes, a method by which a subscriber, within the first 10 seconds after a call begins, may**
36 **enter a single dual-tone multifrequency signal or otherwise enter or speak a one-digit code to notify**
37 **the caller that the subscriber does not want to receive any future calls from the caller.**

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

39 **“(A) Is a collection agency, as defined in ORS 697.005, a debt buyer or a debt collector, as de-**
40 **defined in ORS 646.639;**

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

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

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

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

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

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

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

7 “(a) Is a collection agency, as defined in ORS 697.005, a debt buyer or a debt collector, as de-
8 fined in ORS 646.639;

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

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

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

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

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

18 “(B) Is a debt buyer or is subject to regulation under the Fair Debt Collection Practices Act,
19 15 U.S.C. 1692 et seq.;

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

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

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

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

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

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

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

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

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

35 “(c) For the purpose of complying with the requirements of this subsection, a caller may
36 rely on the area code of a telephone number for a mobile telephone to determine whether
37 the telephone number is for a subscriber located in this state.”.

38 On page 4, delete lines 33 and 34.