



**OREGON DEPARTMENT OF JUSTICE**

TO: House Committee on Commerce & Consumer Protection

FROM: Leslie Wu, Policy Advisor to Attorney General Rayfield, Oregon Department of Justice

DATE: March 13, 2025

SUBJECT: Testimony in Support of HB 3865

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The Oregon Department of Justice writes in support of HB 3865, which modernizes Oregon's phone solicitations and robocall laws to apply to text solicitations and robotexts. We look forward to working with the bill sponsor to pursue technical amendments that will ensure successful implementation of the law to protect working families, seniors, and those most impacted by robotexts and text scams.

The current text messaging loopholes in our laws hurt Oregonians. Due to legal efforts nationwide to curb robocalling, the volume of illegal calls has declined. However, that volume has been replaced with a surge in the use of scam texts. In 2024 alone, the Federal Communications Commission ("FCC") received over 24,000 consumer complaints about unwanted text messages. The FCC has also reported that consumers received an estimated 19 billion spam texts in September 2024 alone, according to private analyses. While the FCC has done rulemaking to address the rising problem of robotexts, certain rules have been challenged as exceeding the agency's rulemaking authority under the Administrative Procedures Act. Additionally, since 2025 the FCC has stayed implementation of their robotext rules until 2026.

Robocalls and robotexts are sent through use of an "automatic dialing and announcing device" or autodialers. Existing Oregon law regulates use of autodialers for phone calls regardless of the subject of the communication. For example, ORS 646A.372 requires autodialers to state within the first 10 seconds of the call a method by which a call recipient can opt-out of future contacts from the caller and prohibits autodialing during outside the hours of 9am to 9pm. ORS 646A.374 prohibits autodialers from misrepresenting their identity. Violations of the autodialer statutes are unlawful trade practices and can result in a civil penalty of up to \$5000 per violation. The

existing statutes do not regulate the use of autodialers for text messages, even though automated text messaging has grown in popularity.

Oregon's phone solicitations laws generally regulate what happens during the solicitation call, regardless of the method for initiating the call (i.e., may have been initiated with an autodialer, or through direct individual contact). For example, ORS 646.563 prohibits repeat phone solicitations to parties that state a desire not to be called again. ORS 646.611 requires phone solicitors to identify themselves within the first 30 seconds of the call. The definition of "phone solicitation" does not explicitly include text message solicitations.

Multiple other states have enacted legislation that mirror or expand on federal regulations on phone and text solicitations. In response to a 2021 U.S. Supreme Court decision that limited the scope of the Telephone Consumer Protection Act of 1991, a federal law protecting consumers from telemarketers, Florida passed a law expanding their state's protections. Arizona, Connecticut, Maryland, New York, Oklahoma, and Washington have all followed suit. Many of those states require telemarketers not to conceal their identity,<sup>1</sup> impose "quiet hours,"<sup>2</sup> and cap contact attempts at no more than three per 24-hour period<sup>3</sup>. Arizona and Maryland have both incorporated text messages into their statutes.<sup>4</sup> HB 3865 aims to close Oregon's text message loophole, increase the duration of our "quiet hours," and impose a solicitation contact cap that applies in equal force to calls and texts.

Scammers and bad actors should not be able to evade our laws simply by switching their method of contact from phone calls to texts. The Department of Justice supports the intent of HB 3865 to modernize our laws and protect Oregonians from the growing use of text scams and robotexts.

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<sup>1</sup> Oklahoma's Bill No. 3168 (2022).

<sup>2</sup> Washington's HB 1051 (2023) imposes quiet hours outside of 8am to 8pm, Connecticut's SB 1058 (2023) imposes quiet hours outside of 9am to 8pm.

<sup>3</sup> Oklahoma's Bill No. 3168 (2022) and Maryland's SB 90 (2023).

<sup>4</sup> Arizona HB 2498 (2023), Maryland SB 90 (2023).