



OREGON DEPARTMENT OF JUSTICE

TO: Senate Committee on Rules

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

DATE: June 13, 2025

SUBJECT: Testimony on HB 3865B -B4 Amendment

The Oregon Department of Justice writes in support of HB 3865B and the -B4 amendments. HB 3865B modernizes Oregon's phone solicitations and robocall laws to apply to text solicitations and robotexts.¹ We have appreciated 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, text scams, and high-pressure text sales tactics.

In its current form, the bill makes the following changes to existing Oregon law:

- Explicitly adds text messages to the definition of phone solicitations. Existing law defines phone solicitations as calls made for “the purpose of encouraging the party to purchase real estate, goods, or services, or to make a donation.”
- Shifts Oregon's law that currently prohibits calls made with autodialing devices outside the hours of 9am-9pm, to the hours of 8am-8pm, aligned with Washington's quiet hours. Incorporates the quiet hours as to phone solicitations even when they are made without an autodialing device, so long as no established business relationship exists.
- Limits the initiation of a phone solicitation to no more than three times in a 24-hour period, unless an established business relationship exists.
- Language added in past amendments clarify that “business to business calls or text messages,” or calls or texts that “respond directly to a message received from a party” do not qualify as phone solicitations. Thus, a business is not engaging in a phone solicitation (and

¹ Arizona recently made a similar update to their laws to add text messages through HB 2498 (2023), sponsored by Representative Gail Griffin.

not prohibited from contact during quiet hours or more than three times in 24 hours) if their contact is in direct response to the consumer.

- Prohibits phone solicitors from misrepresenting or falsifying their identity or the identity of the person they solicit for.
- Clarifies that the existing autodialer laws apply with equal weight to texts, and caps autodialed texts and calls to no more than three in a 24-hour period unless subject to an exemption in (5)(b).²
- Allows businesses to “rely on the area code of a telephone number” for purposes of compliance with both the phone solicitations and autodialer laws.
- Relaxes certain of the disclosure requirements for text solicitations that currently apply to voice call solicitations in the -B4 amendment.

Replying “STOP” or “Opt Out”: ORS 646.563(1)(a) currently states that a person engages in an unlawful practice if during a phone solicitation “the called party states a desire not to be called again and the person making the telephone solicitation makes a subsequent telephone solicitation of the called party at that number.” HB 3865B adds text messages to this prohibition. Functionally, if a consumer texts “STOP,” “Opt Out,” or any other reasonable means of communicating a desire not to be called or texted again, a solicitor would be prohibited from contact under ORS 646.563(1)(a).³

Prior Express Consent: HB 3865B allows businesses who wish to solicit via text message or phone call to do so, as long as the solicitation is initiated between the hours of 8am-8pm, initiated no more than three times in 24 hours, done so without misrepresentation of the solicitor

² The exemptions, modeled off of existing language in other autodialer provisions specify that the quiet hours and three in 24 hour cap do 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; (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.

³ At the federal level, an FCC rule that went into effect on April 11, 2025 treats texts like “STOP” or “Opt Out” as per se reasonable means of revoking consent to receive messages under the federal Telephone Consumer Protection Act (TCPA). Importantly, the rule notes that a consumer may also opt-out of contacts through non-traditional methods like “voicemail or email to any telephone number or address at which the consumer can reasonably expect to reach the caller.” The rule specifies that the burden is on the business to demonstrate why a consumer’s opt-out request was not reasonable.

or purpose of the solicitation, and provided that the consumer does not state a desire not to be called or texted again under ORS 646.563(1)(a). The quiet hours prohibition and three within 24 hours caps do not apply to direct responses to consumers and to business who have an established business relationship with a consumer. “Prior express consent” has been proposed as an additional carve out for solicitors. In practice, prior express consent has been interpreted in a way that has created the “lead generator loophole.” While the FCC attempted to rule-make to close the loophole by clarifying that “prior express consent” must be one seller to one consumer (as opposed long lists of companies), and solicitations must be logically and topically related to the consent obtained from the consumer, the rule was recently struck down as exceeding the agency’s rulemaking authority. The Department joined in *Amicus* briefing with 27 states and the District of Columbia in support of the FCC’s attempt to close the loophole.⁴ The Department continues to have concerns about introducing a “lead generator loophole” into Oregon law.

The Department of Justice supports the intent of HB 3865B to modernize our laws and protect Oregonians from unwanted text messages.

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⁴ [IMC v. FCC Robocalls Amicus Brief As-Filed 03-17-25.pdf](#)