

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Clarify Maine's "Do Not Call" Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA §1499-B, sub-§1, ¶D-1 is enacted to read:

D-1. "Established business relationship" means a prior or existing relationship formed by a voluntary 2-way communication between a telephone solicitor and a consumer with or without an exchange of consideration on the basis of the consumer's purchase from or transaction with the telephone solicitor within the 18 months immediately preceding the date of a telephone sales call or on the basis of the consumer's inquiry or application regarding products or services offered by the telephone solicitor within the 3 months immediately preceding the date of the call as long as the relationship has not been previously terminated by either party.

(1) The consumer's request not to be solicited by telephone registered pursuant to subsection 4 terminates an established business relationship for purposes of a telephone sales call even if the consumer continues to do business with the telephone solicitor.

(2) The consumer's established business relationship with a particular telephone solicitor does not extend to affiliates of the telephone solicitor unless the consumer would reasonably expect them to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate.

Sec. 2. 10 MRSA §1499-B, sub-§2, as enacted by PL 2007, c. 227, §2, is amended to read:

2. Application. This section does not apply to:

- A. A telephone sales call made in response to and at the express request of the person called;
- B. A telephone sales call made primarily in connection with an existing debt or contract for which payment or performance has not been completed at the time of the call; or
- C. A telephone sales call for a solicitation other than a commercial solicitation, but only if:

(1) The telephone call is made by a volunteer or an employee of the soliciting organization; and

(2) The telephone solicitor who makes the telephone call immediately discloses all of the following information:

(a) The solicitor's true first and last name; and

(b) The name, address and telephone number of the soliciting organization; or

D. A telephone sales call made to any person with whom the telephone solicitor has an established business relationship.

Sec. 3. 10 MRSA §1499-B, sub-§6, as enacted by PL 2007, c. 227, §2, is amended to read:

6. Telephone solicitation violations. It is a violation of this section for a telephone solicitor to initiate a telephone sales call to a consumer if that consumer's telephone number has been on the national or state do-not-call registry, established by the Federal Trade Commission, for at least 3 months prior to the date the call is made. It is an affirmative defense in any action brought under this subsection that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of this section.

SUMMARY

This bill restores an affirmative defense provision to Maine's "Do Not Call" laws and adds an exemption from the application of the statute for telephone calls made to any person with whom the caller has an established business relationship.