



129th MAINE LEGISLATURE

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Legislative Document

No. 348

H.P. 274

House of Representatives, January 24, 2019

**An Act To Prohibit the Providing of Misleading or Inaccurate
Information via Caller Identification Services during Telemarketing
Calls**

Reference to the Committee on Innovation, Development, Economic Advancement and Business suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TIPPING of Orono.
Cosponsored by Senator MIRAMANT of Knox and
Representatives: RILEY of Jay, ROBERTS-LOVELL of South Berwick, RYKERSON of
Kittery, Senator: MILLETT of Cumberland.

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

2 **Sec. 1. 10 MRSA §1499-A**, as enacted by PL 2003, c. 70, §1 and affected by §2,
3 is amended to read:

4 **§1499-A. Telemarketing; prohibition on number blocking and misleading caller**
5 **identification**

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
7 following terms have the following meanings.

8 A. "Caller identification service" means a service that allows a telephone subscriber
9 to have the telephone number and, where available, name of the calling party
10 transmitted contemporaneously with the telephone call and displayed on a device in
11 or connected to the subscriber's telephone.

12 B. "Seller" means any person who, in connection with a telemarketing transaction,
13 provides, offers to provide or arranges for others to provide goods or services to the
14 customer in exchange for consideration.

15 C. "Telemarketer" means any person who, in connection with telemarketing, initiates
16 or receives telephone calls to or from a customer or donor.

17 D. "Telemarketing" means a plan, program or campaign that is conducted by use of
18 one or more telephones or other telecommunications services, including
19 interconnected voice over Internet protocol, to induce the purchase of goods or
20 services or a charitable contribution and that involves more than one intrastate
21 telephone call. "Telemarketing" does not include the solicitation of sales through the
22 mailing of a catalog that contains a written description or illustration of the goods or
23 services offered for sale, the business address of the seller and multiple pages of
24 written material or illustrations, and that is issued not less frequently than once a
25 year, if the person making the solicitation does not solicit customers by telephone but
26 only receives calls initiated by customers in response to the catalog and during those
27 calls takes orders without further solicitation. For purposes of this paragraph, the
28 term "further solicitation" does not include providing the customer with information
29 about, or attempting to sell, any other item included in the same catalog that
30 prompted the customer's call or in a substantially similar catalog.

31 **2. Prohibition.** Except as provided in subsection 3, it is an unfair trade practice, as
32 prohibited by Title 5, section 207, for a seller or telemarketer to fail to transmit or cause
33 to be transmitted the telephone number and, when made available by the telemarketer's
34 carrier, the name of the telemarketer to any caller identification service in use by a
35 recipient of a telemarketing call.

36 **2-A. Misleading or inaccurate caller identification information prohibited;**
37 **penalty.** A seller or telemarketer may not knowingly cause any caller identification
38 service to transmit misleading or inaccurate caller identification information with the
39 intent to defraud or cause harm to another person or to wrongfully obtain anything of
40 value. In addition to any other penalty provided by this section, a person found guilty of
41 violating this subsection commits a civil violation for which a fine of not less than \$500

1 for the first offense and not less than \$1,000 for any subsequent offense must be adjudged
2 and for which the seller or telemarketer must pay restitution of any financial benefit
3 secured through conduct proscribed by this subsection.

4 **3. Exception.** It is not a violation of subsection 2 or 2-A for a seller or telemarketer
5 to substitute for the name and telephone number used in or billed for making the call:

6 A. The name of the seller or charitable organization on whose behalf the
7 telemarketing call is placed; and

8 B. The seller's or charitable organization's customer or donor service telephone
9 number that is answered during regular business hours.

10 SUMMARY

11 This bill makes it a civil violation for a seller or telemarketer engaging in a
12 telemarketing call to knowingly cause any caller identification service to transmit
13 misleading or inaccurate caller identification with the intent to defraud or cause harm to
14 another person or to wrongfully obtain anything of value. It establishes a fine of not less
15 than \$500 for the first offense and of not less than \$1,000 for any subsequent offense to
16 be imposed in addition to any other penalties imposed under the law regarding
17 telemarketing and caller identification and requires restitution to be paid.