

**SENATE CS FOR CS FOR HOUSE BILL NO. 109(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered: 5/3/96**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVES BROWN, Navarre, B.Davis, Robinson**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to telephone solicitations, advertisements, and directory listings**  
**2 and relating to political polling and campaigning by telephone."**

**3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**4 \* Section 1.** AS 15.13 is amended by adding a new section to read:

**5 Sec. 15.13.095. FALSE STATEMENTS IN TELEPHONE POLLING AND**  
**6 CALLS TO CONVINCe. (a)** A candidate who is damaged as the result of a false  
**7 statement about the candidate made with knowledge that it was false, or with reckless**  
**8 disregard for whether it was false or not, made as part of a telephone poll or an**  
**9 organized series of calls, and made with the intent to convince potential voters**  
**10 concerning the outcome of an election in which the candidate is running may recover**  
**11 damages in an action in superior court under this section against the individual who**  
**12 made the telephone call, the individual's employer, and the person who contracted for**  
**13 or authorized the poll or calls to convince. However, the employer of the individual**  
**14 or the person who contracted for or authorized the poll or calls to convince is liable**

1 to the defamed candidate only if the employer or person authorized the statement to  
2 be made, knowing that it was false or with reckless disregard for whether it was false  
3 or not, as part of the poll or calls to convince.

4 (b) The court may award damages, including punitive damages. If the court  
5 finds that the result of the statement places the integrity of the election process in  
6 substantial doubt, the eligibility of the successful candidate to hold the office to which  
7 elected shall be determined as provided in AS 15.56.110(b) or, in the case of a  
8 candidate for governor or lieutenant governor, by impeachment under art. II, sec. 20,  
9 Constitution of the State of Alaska.

10 \* **Sec. 2.** AS 15.56 is amended by adding a new section to read:

11 Sec. 15.56.025. TELEPHONE CAMPAIGN MISCONDUCT. (a) A person  
12 commits the crime of telephone campaign misconduct if the person makes a statement  
13 about a candidate

14 (1) as part of an organized telephone poll or organized series of calls  
15 to convince potential voters concerning the outcome of an election;

16 (2) that the person knows to be false; and

17 (3) that the person intends to affect the outcome of the election.

18 (b) Violation of this section is a corrupt practice. However, notwithstanding  
19 AS 15.20.540, only a defeated candidate may contest the nomination or election of a  
20 person for violation of this section.

21 (c) Telephone campaign misconduct is a class A misdemeanor.

22 \* **Sec. 3.** AS 45.50.471(b) is amended by adding a new paragraph to read:

23 (41) failing to comply with AS 45.50.475.

24 \* **Sec. 4.** AS 45.50 is amended by adding a new section to read:

25 Sec. 45.50.475. UNLAWFUL, UNWANTED TELEPHONE  
26 ADVERTISEMENTS AND SOLICITATIONS. (a) A person is in violation of  
27 AS 45.50.471(b)(41) if the person

28 (1) engages in the telephone solicitation of a residential telephone  
29 customer of a telecommunications company and the customer is identified in the  
30 telephone directory as not wishing to receive telephone solicitations; or

31 (2) originates a telephone call using an automated or recorded message

1 as a telephonic advertisement or solicitation.

2 (b) A local exchange telecommunications company and a company that  
3 provides a telephone directory on behalf of a local exchange telecommunications  
4 company shall provide for the identification in the telephone directory of those  
5 residential customers who do not wish to receive telephone solicitations. The local  
6 exchange telecommunications company may impose a reasonable charge for  
7 identification in the directory. The charge shall be based on the cost of providing the  
8 identification and is subject to the approval of the Alaska Public Utilities Commission.

9 (c) A local exchange telecommunications company shall, upon request, provide  
10 to a person who engages in telephone solicitation a list of all telephone numbers  
11 identified in the telephone directory as residential customers who do not wish to  
12 receive telephone solicitations. If possible and if requested by the person who engages  
13 in telephone solicitation, this list shall be provided in computer readable format. The  
14 local exchange telephone company may impose a reasonable charge for the list. The  
15 charge shall be based on the cost of providing the list and is subject to the approval  
16 of the Alaska Public Utilities Commission.

17 (d) A person who employs individuals to engage in telephone solicitations is  
18 not liable for the violation of AS 45.50.475 if an employee solicits a residential  
19 telephone customer who is identified in the telephone directory as not wishing to  
20 receive telephone solicitations if the person establishes that

21 (1) the person has adopted and implemented written procedures to  
22 comply with (a) of this section including corrective actions where appropriate;

23 (2) the person has trained its personnel in the procedures established  
24 under (1) of this subsection;

25 (3) the call that violated AS 45.50.475 was made contrary to the  
26 procedures and policies established by the person; and

27 (4) calls on behalf of the person that result in violations of  
28 AS 45.50.475 are infrequent.

29 (e) An individual who solicits a residential telephone customer who is identified  
30 in the telephone directory as not wishing to receive telephone solicitations is not liable  
31 for the violation of AS 45.50.475 if the individual establishes that the individual did

1 not intend to make a call in violation of AS 45.50.475 and did not recklessly disregard  
2 information or policies and procedures that would have avoided the improper call.

3 (f) Local exchange telecommunications companies shall inform residential  
4 customers of the provisions of this section. Notification may be made by

5 (1) annual inserts in the billing statements mailed to residential  
6 customers; or

7 (2) conspicuous publication of the notice in the consumer information  
8 pages of local telephone directories.

9 (g) In this section,

10 (1) "charitable organization" has the meaning given in AS 45.68.900;

11 (2) "customer" means a residential telephone customer of a  
12 telecommunications company;

13 (3) "telephone solicitation"

14 (A) means the solicitation by a person by telephone of a  
15 customer at the residence of the customer for the purpose of encouraging the  
16 customer to purchase property, goods, or services, or make a donation;

17 (B) does not include

18 (i) calls made in response to a request or inquiry by the  
19 called customer or communications made during a call made by the  
20 customer;

21 (ii) calls made by a charitable organization, a public  
22 agency, or volunteers on behalf of the charitable organization or public  
23 agency to members of the organization or agency or to persons who,  
24 within the last 24 months, have made a donation to the organization or  
25 agency or expressed an interest in making a donation;

26 (iii) calls limited to soliciting the expression of ideas,  
27 opinions, or votes;

28 (iv) business-to-business calls; or

29 (v) a person soliciting business from prospective  
30 purchasers who have, within the last 24 months, purchased from the  
31 person making the solicitation or from the business enterprise for which

1                   the person is calling but only if the person or business enterprise has  
2                   not received a written request from the prospective purchaser asking  
3                   that telephone solicitations cease; the person or business enterprise is  
4                   presumed to have received a written request no later than 10 days after  
5                   the prospective purchaser mailed it, properly addressed and with the  
6                   appropriate postage;  
7       \* **Sec. 5.** AS 45.50.472 is repealed.