

Sec. 45.50.475. Unlawful, unwanted telephone advertisements and solicitations.

(a) A person is in violation of AS 45.50.471(b)(41) if the person

(1) [Repealed, Sec. 35 ch 55 SLA 2004].

(2) engages in the telephone solicitation of a customer whose telephone number has been registered with the national do not call registry for the minimum amount of time required by the national do not call registry before the date the call is made;

(3) engages in the telephone solicitation of a customer who has previously communicated to the telephone solicitor, or to the business enterprise or charitable organization for which the person is calling, the customer's desire not to receive telephone solicitations to that number; or

(4) originates a telephone call using an automated or recorded message as a telephonic advertisement or a telephone solicitation.

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

(c) [Repealed, Sec. 35 ch 55 SLA 2004].

(d) A person who employs individuals to engage in telephone solicitations is not liable for a violation of (a)(1) - (3) of this section if the person establishes that

(1) the person has adopted and implemented written procedures and policies to comply with (a)(1) - (3) of this section, including corrective actions if appropriate;

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

(3) the call that violated (a)(1) - (3) of this section was made contrary to the procedures and policies established by the person; and

(4) the call that violated (a)(1) - (3) of this section was made as a result of a good faith error.

(e) An individual who solicits a telephone customer in violation of (a)(1) - (3) of this section is not liable for the violation if the individual establishes that the individual did not intend to make the call in violation of this section and did not recklessly disregard information or policies and procedures that would have avoided the improper call.

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

(1) quarterly inserts in the billing statements mailed to customers; and

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

(g) In this section,

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

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

(3) "national do not call registry" means the data base of telephone numbers of customers who do not wish to receive telephone solicitations established and maintained by the Federal Trade Commission and the Federal Communications Commission;

(4) "telephone solicitation"

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

(B) does not include

(i) calls made in response to a request or inquiry by the called customer or communication made during a call made by the customer;

(ii) calls made by a charitable organization or volunteers on behalf of the charitable organization to a member of the organization or to a person who, within the last 18 months, has made a donation to the organization or expressed an interest in making a donation, but only if the charitable organization has not received a request from the member or person asking that the telephone solicitations cease;

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

(iv) business-to-business calls; or

(v) a person soliciting business from prospective purchasers who have, within the last 18 months, purchased from the person making the solicitation or from the business enterprise for which the person is calling but only if the person or business enterprise has not received a request from the prospective purchaser asking that telephone solicitations cease; the person or business enterprise is presumed to have received a written request no later than 10 days after the prospective purchaser mailed it, properly addressed and with the appropriate postage.

History -

(Sec. 4 ch 142 SLA 1996; am Sec. 64, 65 ch 35 SLA 2003; am Sec. 2 - 8, 35, 39 ch 55 SLA 2004)

Revisors Notes -

In 1999, in subsections (b) and (c) "Regulatory Commission of Alaska" was substituted for "Alaska Public Utilities Commission" in accordance with Sec. 30(a), ch. 25, SLA 1999.

Paragraph (g)(3) was enacted as paragraph (g)(4) and renumbered in 2004, at which time former paragraph (g)(3) was renumbered as (g)(4).

Cross References -

For failure to comply with this section as an unlawful trade practice, see AS 45.50.471(b).

Amendment Notes -

The 2003 amendment, effective June 3, 2003, substituted "this section" for "AS 45.50.475" throughout subsections (d) and (e).

The 2004 amendment by Sec. 2 - 8, ch. 55, SLA 2004, effective July 1, 2004, in subsection (a), inserted paragraphs (2) and (3), redesignated former paragraph (2) as (4), and inserted "a telephone" in paragraph (4); and rewrote subsections (d), (e), (f), and (g).

The 2004 amendment by Sec. 35 and 39, ch. 55, SLA 2004, effective August 16, 2006, repealed subsections (a)(1) and (c)