

**HOUSE BILL NO. 15**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVES FATE, Gara, Chenault**

**Introduced: 1/21/03**

**Referred: Labor and Commerce, State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to establishing the Alaska No-Call List, a data base of residential**  
2 **telephone customers who do not wish to receive telephonic solicitations; providing that**  
3 **the data base be compiled at no cost to the customers; requiring paid telephonic sellers**  
4 **to purchase the data base; requiring telephonic sellers to identify themselves; requiring**  
5 **telephonic solicitors who are otherwise exempt from registration as telephonic solicitors**  
6 **to file with the Department of Law and purchase the data base; and providing for an**  
7 **effective date."**

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

9 **\* Section 1.** AS 45.50.475(a) is amended to read:

10 (a) A person is in violation of AS 45.50.471(b)(41) if the person  
11 (1) engages in the **telephonic** [TELEPHONE] solicitation of a  
12 residential telephone customer of a telecommunications company and the customer is  
13 identified in the **Alaska No-Call List, a data base established under (b) of this**

1        **section** [TELEPHONE DIRECTORY AS NOT WISHING TO RECEIVE  
2        TELEPHONE SOLICITATIONS]; or

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

5        \* **Sec. 2.** AS 45.50.475(b) is repealed and reenacted to read:

6                    (b) The Alaska No-Call List is established as a data base for use when  
7        verifying that residential subscribers in the state have given notice of objection to  
8        receiving telephonic solicitations. The Alaska No-Call List shall be easily accessible  
9        by persons or entities desiring to make telephonic solicitations and by state and local  
10       law enforcement agencies. The following apply to the Alaska No-Call List:

11                   (1) the attorney general shall, by regulation, establish guidelines for the  
12        designated agent for the development and maintenance of the Alaska No-Call List so  
13        that

14                            (A) there is no cost for a residential subscriber to provide  
15        notification to the designated agent that the subscriber objects to receiving  
16        telephonic solicitations;

17                            (B) there is an annual registration fee of not more than \$500 for  
18        persons or entities that wish to make telephonic solicitations or otherwise  
19        access the data base of telephone numbers and zip codes contained in the  
20        Alaska No-Call List data base; the attorney general shall determine the fee on a  
21        sliding scale so that persons or entities with fewer than five employees do not  
22        pay a fee; nonprofit corporations, as defined in AS 10.20.720, may not be  
23        charged a fee; the maximum fee shall be charged only to persons or entities  
24        with more than 1,000 employees; money collected from the fees must cover  
25        the direct and indirect costs related to the creation and operation of the Alaska  
26        No-Call List; money from the fees shall be collected by and paid directly to the  
27        designated agent; the attorney general may annually adjust the fees below the  
28        stated maximum based on revenue history of the fees received by the  
29        designated agent; the designated agent shall provide means for online  
30        registration and credit card payment of fees; when initially registering for the  
31        Alaska No-Call List, each person or entity shall provide a current business

1 name, business address, electronic mail address, if available, and telephone  
2 number, and this information shall be revised when changes to it occur;

3 (C) a residential subscriber may give notice to the designated  
4 agent of the person's objection to receiving telephonic solicitations, or may  
5 revoke notice, by

6 (i) entering the area code, telephone number, and zip  
7 code of the subscriber directly into the data base by way of the  
8 designated state Internet web site; or

9 (ii) using a touch-tone telephone to enter the area code,  
10 telephone number, and zip code of the subscriber by way of a  
11 designated statewide, toll-free telephone number maintained by the  
12 designated agent as part of the Alaska No-Call List program;

13 (D) the date of every notice received under (C) of this  
14 paragraph is recorded and included as part of the information in the Alaska No-  
15 Call List;

16 (E) the designated agent shall, subject to supervision by the  
17 attorney general, revise information about the Alaska No-Call List program on  
18 the designated state Internet web site;

19 (F) the designated agent or a person or entity collecting  
20 information to be transmitted to the designated agent may not use or distribute  
21 subscriber information contained in the Alaska No-Call List except as  
22 expressly authorized under this subsection;

23 (G) the methods by which additions, deletions, changes, and  
24 modifications are made to the Alaska No-Call List data base are available to  
25 persons or entities on request; the methods must include provisions to remove  
26 a telephone number that has been disconnected or reassigned from the Alaska  
27 No-Call List on at least an annual basis;

28 (H) the designated agent shall maintain an automated, online  
29 complaint system for residential subscribers to report suspected violations  
30 using the designated state Internet web site; the automated, online complaint  
31 system must be able to electronically collect, sort, and report suspected

1 violations to the appropriate state enforcement agency for enforcement  
2 purposes;

3 (I) the Alaska No-Call List is available online at the Alaska  
4 No-Call List web site to a person or entity desiring to make telephonic  
5 solicitations if the person or entity has registered under (B) of this paragraph;  
6 the list shall be available in a text or other compatible format, at the discretion  
7 of the attorney general, but shall allow telephonic solicitors to select and sort  
8 by specific zip codes and telephone area codes; telephonic solicitors may not  
9 receive additional compensation for distributing the Alaska No-Call List, but  
10 are encouraged to freely distribute the Alaska No-Call List at no cost; and

11 (J) other matters relating to the data base as the attorney  
12 general considers necessary or desirable are covered by regulation;

13 (2) if the appropriate federal agency establishes a single national data  
14 base of telephone numbers of residential subscribers who object to receiving  
15 telephonic solicitations, the designated agent shall include that portion of a single  
16 national data base that relates to the state in the Alaska No-Call List established under  
17 this subsection;

18 (3) the state is not liable to a person for gathering, managing, or using  
19 information in the Alaska No-Call List data base under this subsection and for  
20 enforcing the provisions of this subsection;

21 (4) the designated agent is not liable to a person for performing the  
22 designated agent's duties under this subsection unless, and only to the extent that, the  
23 designated agent commits a willful and wanton act or omission;

24 (5) the designated agent shall revise the data base on an ongoing basis  
25 with information provided by residential subscribers and local exchange providers;

26 (6) a person may not place the telephone number of another person on  
27 the Alaska No-Call List without the authorization of the person to whom the number is  
28 assigned;

29 (7) the attorney general shall submit a report to the standing Finance  
30 Committees of the Alaska Legislature every six months; the report must include

31 (A) an account of fee revenues received under this section in

1 the previous six months;

2 (B) expenditures for administration of the Alaska No-Call List  
3 program for the previous six months;

4 (C) projections of fee revenues for the next 12 months; and

5 (D) projections of expenditures for administration of the  
6 program for the next 12 months, including the expenditures of the designated  
7 agent and expenditures of the attorney general.

8 \* **Sec. 3.** AS 45.50.475(d) is amended to read:

9 (d) A person who employs individuals to engage in **telephonic**  
10 [TELEPHONE] solicitations is not liable for the violation of **this section**  
11 [AS 45.50.475] if an employee solicits a residential telephone customer who is  
12 identified in the **data base** [TELEPHONE DIRECTORY] as not wishing to receive  
13 **telephonic** [TELEPHONE] solicitations if the person established that

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

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

18 (3) the call that violated **this section** [AS 45.50.475] was made  
19 contrary to the procedures and policies established by the person; and

20 (4) calls on behalf of the person that result in violations of **this section**  
21 [AS 45.50.475] are infrequent.

22 \* **Sec. 4.** AS 45.50.475(e) is amended to read:

23 (e) An individual who solicits a residential telephone customer who is  
24 identified in the **data base** [TELEPHONE DIRECTORY] as not wishing to receive  
25 **telephonic** [TELEPHONE] solicitations is not liable for the violation of **this section**  
26 [AS 45.50.475] if the individual establishes that the individual did not intend to make  
27 a call in violation of **this section** [AS 45.50.475] and did not recklessly disregard  
28 information or policies and procedures that would have avoided the improper call.

29 \* **Sec. 5.** AS 45.50.475(g)(3) is amended to read:

30 (3) "**telephonic** [TELEPHONE] solicitation"

31 (A) means **a voice or telefacsimile communication over a**

1 [THE SOLICITATION BY A PERSON BY] telephone line [OF A  
 2 CUSTOMER AT THE RESIDENCE OF THE CUSTOMER] for the purpose  
 3 of encouraging the [CUSTOMER TO] purchase or rental of or investment in  
 4 property, goods, or services, or the making of [MAKE] a donation;

5 (B) does not include

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

9 (ii) calls made by a charitable organization, a public  
 10 agency, or volunteers on behalf of the charitable organization or public  
 11 agency to members of the organization or agency or to persons who,  
 12 within the last 24 months, have made a donation to the organization or  
 13 agency or expressed an interest in making a donation;

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

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

17 (v) a person soliciting business from prospective  
 18 purchasers who have, within the last 24 months, purchased from the  
 19 person making the solicitation or from the business enterprise for which  
 20 the person is calling but only if the person or business enterprise has  
 21 not received a written request from the prospective purchaser asking  
 22 that telephonic [TELEPHONE] solicitations cease; the person or  
 23 business enterprise is presumed to have received a written request no  
 24 later than 10 days after the prospective purchaser mailed it, properly  
 25 addressed and with the appropriate postage.

26 \* **Sec. 6.** AS 45.50.475 is amended by adding a new subsection to read:

27 (h) A person required to register under AS 45.63.010 or a person who is  
 28 exempt from registration under AS 45.63.080 shall purchase the appropriate data base  
 29 from the attorney general or from an entity with which the attorney general has  
 30 entered into a contract.

31 \* **Sec. 7.** AS 45.63.010(b) is amended to read:

1 (b) To register under (a) of this section, a person shall file with the department  
 2 (1) a notice of intent to engage in a solicitation campaign; a separate  
 3 notice of intent shall be filed for each solicitation campaign;

4 (2) an irrevocable consent appointing the department the person's agent  
 5 for the receipt of service of process in a court action or other proceeding against the  
 6 person, or the successor in interest of the person, for a violation of this chapter; [AND]

7 (3) **a request and payment for the appropriate data base compiled**  
 8 **under AS 45.50.475(b) of the telephone numbers of residential customers who do**  
 9 **not wish to receive telephonic solicitations; and**

10 (4) a signed statement that the person has read and will comply with  
 11 this chapter and the regulations adopted under this chapter.

12 \* **Sec. 8.** AS 45.63.010(c) is amended to read:

13 (c) Registration under (b) of this section is not complete until the telephonic  
 14 seller receives an acknowledgement from the department that the seller has complied  
 15 with (b) of this section **and the telephonic seller has the data base of telephone**  
 16 **numbers of residential customers who do not wish to receive telephonic**  
 17 **solicitations.**

18 \* **Sec. 9.** AS 45.63 is amended by adding a new section to read:

19 **Sec. 45.63.045. Required representations.** The telephonic seller

20 (1) shall, within one minute after beginning the conversation, inform  
 21 each person called of the registered seller's name and telephone number and whom the  
 22 registered seller represents;

23 (2) shall provide the information under (1) of this section at any time  
 24 during the conversation after it is provided under (1) of this section if requested by a  
 25 person at the number called; and

26 (3) may not repeatedly cause a telephone to ring or engage a person in  
 27 a telephone conversation repeatedly or continuously with the intent to annoy, abuse, or  
 28 harass a person at the telephone number called.

29 \* **Sec. 10.** AS 45.50.475(c) is repealed.

30 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
 31 read:

1           DATE BASE SETUP. (a) Not later than January 1, 2004, the attorney general shall  
2 contract with a designated agent to maintain the Internet web site and data base containing the  
3 Alaska No-Call List. If only one entity bids on the contract, the attorney general may, at the  
4 attorney general's discretion, award the contract.

5           (b) Not later than July 1, 2004, the designated agent, using the designated state  
6 Internet web site, shall develop and maintain the Alaska No-Call List data base with  
7 information provided by residential subscribers.

8       \* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10           TRANSITIONAL PROVISIONS: REGULATIONS. Notwithstanding sec. 13 of this  
11 Act, the attorney general may proceed to adopt regulations necessary to implement this Act.  
12 The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
13 effective date of secs. 1 - 10 of this Act.

14       \* **Sec. 13.** Sections 1 - 10 of this Act take effect July 1, 2004.

15       \* **Sec. 14.** Sections 11 and 12 of this Act take effect immediately under AS 01.10.070(c).