

**CS FOR HOUSE BILL NO. 15(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/10/03

Referred: State Affairs, Finance

Sponsor(s): REPRESENTATIVES FATE, Gara, Chenault, Crawford, Kerttula, Croft

**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 and paid solicitors to purchase the data base; requiring telephonic sellers to identify  
5 themselves; requiring telephonic solicitors who are otherwise exempt from registration  
6 as telephonic solicitors to file with the Department of Law and pay the data base access  
7 fee; and providing for an 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5        \* **Sec. 2.** AS 45.50.475(b) is repealed and reenacted to read: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 attorney general shall contract with a designated agent to maintain the  
7        Internet web site and data base containing the Alaska No-Call List. The Alaska No-  
8        Call List is established as a data base for use when verifying that residential  
9        subscribers in the state have given notice of objection to receiving telephonic  
10       subscribers in the state have given notice of objection to receiving telephonic  
11       solicitations. The Alaska No-Call List shall be easily accessible by persons or entities  
12       desiring to make telephonic solicitations and by state and local law enforcement  
13       agencies. The following apply to the Alaska No-Call List:

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

17                            (A) there is no cost for a residential subscriber to provide  
18       notification to the designated agent that the subscriber objects to receiving  
19       telephonic solicitations;

20                            (B) there is an annual data base access fee of \$750 for persons  
21       or entities that wish to make telephonic solicitations or otherwise access the  
22       data base of telephone numbers and zip codes contained in the Alaska No-Call  
23       List data base; money collected under this section by the designated agent must  
24       cover the costs of creating, maintaining, and updating the data base,  
25       maintaining the online complaint system, and reimbursement to the attorney  
26       general for relevant expenditures; the attorney general may annually adjust the  
27       fees received by the designated agent; the designated agent shall provide  
28       means for online registration and credit card payment of fees; when initially  
29       registering for the Alaska No-Call List, each person or entity shall provide  
30       information required by the attorney general, including a current business  
31       name, business address, electronic mail address, if available, and telephone  
      number, and this information shall be revised when changes to it occur;

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

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

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

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

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

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

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

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

1 (I) the Alaska No-Call List is available online at the Alaska  
 2 No-Call List web site to a person or entity desiring to make telephonic  
 3 solicitations if the person or entity paid the access fee under (B) of this  
 4 paragraph; the list shall be available in a text or other compatible format, at the  
 5 discretion of the attorney general, but shall allow telephonic solicitors to select  
 6 and sort by specific zip codes and telephone area codes; and

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

9 (2) if the appropriate federal agency establishes a single national data  
 10 base of telephone numbers of residential subscribers who object to receiving  
 11 telephonic solicitations, the designated agent shall, at no additional charge, include  
 12 that portion of a single national data base that relates to this state in the Alaska No-  
 13 Call List established under this subsection;

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

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

20 (5) the designated agent shall revise the data base on a periodic basis  
 21 with information provided by residential subscribers and local exchange providers;

22 (6) a person may not place or remove the telephone number of another  
 23 person on the Alaska No-Call List without the authorization of the person to whom the  
 24 number is assigned;

25 (7) the attorney general shall submit a report to the standing Finance  
 26 Committees of the Alaska Legislature not later than January 31 each year; the report  
 27 must include

28 (A) an account of fee revenue received under this section in the  
 29 previous 12 months;

30 (B) expenditures for administration of the Alaska No-Call List  
 31 program for the previous 12 months;

1 (C) projections of fee revenue for the next 12 months; and

2 (D) projections of expenditures for administration of the  
3 program for the next 12 months, including the expenditures of the designated  
4 agent and expenditures of the attorney general.

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

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

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

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

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

17 (4) calls on behalf of the person that result in violations of **this section**  
18 **occur not more than twice in a 30-day period** [AS 45.50.475 ARE INFREQUENT].

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

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

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

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

28 (A) means **a voice or telefacsimile communication over a**  
29 [THE SOLICITATION BY A PERSON BY] telephone **line** [OF A  
30 CUSTOMER AT THE RESIDENCE OF THE CUSTOMER] for the purpose  
31 of encouraging the [CUSTOMER TO] purchase, **lease, or rental of or**

1           investment in property, goods, or services, or the making of [MAKE] a  
2           donation;

3                           (B) does not include

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

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

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

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

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

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

25                           (h) A person required to register under AS 45.63.010 or AS 45.68.010(b), or a  
26                           person who is exempt from registration under AS 45.63.080, shall purchase access to  
27                           the appropriate data base from the designated agent with which the attorney general  
28                           has entered into a contract.

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

30                           (b) To register under (a) of this section, a person shall file with the department  
31                                   (1) a notice of intent to engage in a solicitation campaign; a separate

1 notice of intent shall be filed for each solicitation campaign;

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

5 (3) **an acknowledgment from the designated agent that the person**  
6 **has paid the data base access fee under AS 45.50.475(b)(1)(B); and**

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

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

10 (c) Registration under (b) of this section is not complete until the telephonic  
11 seller receives an **acknowledgment** [ACKNOWLEDGEMENT] from the department  
12 that the seller has complied with (b) of this section **and the telephonic seller has the**  
13 **data base of telephone numbers of residential customers who do not wish to**  
14 **receive telephonic solicitations.**

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

16 **Sec. 45.63.045. Required representations.** A telephonic seller

17 (1) shall, promptly and in a clear and conspicuous manner, disclose the  
18 registered seller's name and telephone number, whom the registered seller represents,  
19 and that the call is a sales call; and

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

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

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

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

29 DATA BASE SETUP. (a) Not later than January 1, 2004, the attorney general shall  
30 contract with a designated agent to maintain the Internet web site and data base containing the  
31 Alaska No-Call List. If only one entity bids on the contract, the attorney general may, at the

1 attorney general's discretion, award the contract. If no responsive and responsible bids are  
2 received, the attorney general may advertise again for bids. The contract must begin not later  
3 than July 1, 2004.

4 (b) Not later than six months after the beginning of the contract, the designated agent,  
5 using the designated state Internet web site, shall develop and maintain the Alaska No-Call  
6 List data base with information provided by residential subscribers.

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

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

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

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