

HB

62



Official Business

ALASKA STATE LEGISLATURE

REPRESENTATIVE KURT OLSON

- Co-Chair, Community and Regional Affairs
- Member, Resources

Session: January - May
 State Capitol, #110
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SPONSOR STATEMENT

HB 62

House Bill 62 will prohibit automated telephone calls for a political advertisement to telephone numbers listed in the National Do Not Call Registry.

The use of automated telemarketing equipment to deliver political messages has grown significantly during recent elections. Many of these systems are designed to target answering machines and will disconnect immediately if the telephone is answered by a person. Answering machines can be filled with these messages in less than 48 hours.

During the first year of the Do Not Call Registry 81,606 Alaskans and 62,083,345 Americans chose to participate in the program. It is estimated that one-third of Alaskan residential telephones are currently participating.

HB 62 will not prohibit calls from a candidate, paid campaign staff, or volunteers. The intent of HB 62 is to prevent political phone spam.

<https://www.donotcall.gov>

Need legal opinion as relates to 1st Amendment rights - free speech -

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB062-LAW-C&FB-2-20
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to prohibiting automated RDU CIVIL
telephone calls for a political advertisement..." Component Labor & State Affairs
 Sponsor Representative Olson
 Requester House State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill amends AS 45.50.475 by adding a new subsection that would add as a violation of AS 45.50.471(b)(41) (Unlawful acts and practices) automated telephone calls related to elections or candidates that are intended to convince or influence potential voters, if the residential telephone customer has registered with the national do not call registry, or is identified in the telephone directory as not wishing to receive telephone solicitations.

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn Daughettee, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 2/21/05 2:19 PM
 Approved by: K. Daughettee for Scott Nordstrand, Acting Attorney General Date 2/21/2005
 Agency: Department of Law

section.

Charitable organization" has the meaning given in AS 45.68.900;

Customer" means a telephone customer of a telecommunications company;

Do not call registry" means the data base of telephone numbers of

persons who do not wish to receive telephone solicitations established and maintained

by the Alaska State Consumer Protection Division, the Federal Trade Commission and the Federal Communications Commission.

Telephone solicitation"

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 to make a donation;

but does not include

(1) solicitations made in response to a request or inquiry by the called customer or communi-

cations made during a call made by the customer;

(2) 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

organization or person asking that the telephone solicitations cease;

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

(4) business-to-business calls; or

(5) 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

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. (§ 4 ch 142 SLA 1996; am §§ 64, 65 ch 35 SLA 2003; am

§§ 1 — 8 ch 55 SLA 2004)

Conditional repeal of subsections (a)(1) and

(c). — Under § 35, ch. 55, SLA 2004, subsection (a)(1)

and subsection (c) are repealed. Under § 39, ch. 55,

SLA 2004, the repeal of subsection (a)(1) and the

repeal of subsection (c) take effect "the day after the

date on which the attorney general notifies the govern-

ment and the revisor of statutes that the national do not

call registry is established and enforced by the Fed-

eral Trade Commission and Federal Communications

Commission."

Revisor's notes. — In 1999, in subsections (b) and

(c) "Regulatory Commission of Alaska" was substi-

tuted for "Alaska Public Utilities Commission" in

accordance with § 30(a), ch. 25, SLA 1999.

Paragraph (g)(3) was enacted as paragraph (g)(4)

and renumbered in 2004, at which time former para-

graph (g)(3) was renumbered as (g)(4).

Effect of amendments. — The 2003 amendment,

effective June 3, 2003, substituted "this section" for

"AS 45.50.475" throughout subsections (d) and (e).

The 2004 amendment, effective July 1, 2004, in

subsection (a), inserted paragraphs (2) and (3), redesi-

gnated former paragraph (2) as (4), and inserted "a

telephone" in paragraph (4); and rewrote subsections

(d), (e), (f), and (g).

Effective dates. — Section 4, ch. 142, SLA 1996,

which enacted this section, took effect on November 4,

1996.

Sec. 45.50.477. Use of titles relating to industrial hygiene. (a) A person may not

use the title "industrial hygienist," the initials "I.H.," another term that includes the

phrase "industrial hygiene" or similar words, or represent to the public that the person is

an industrial hygienist, unless the person has a baccalaureate or graduate degree in

industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical

or biological science from a college or university accredited by a national or regional

accreditation association recognized by the Council on Recognition of Postsecondary

accreditation, or a degree based on equivalent academic training, and has acquired

competence in industrial hygiene through special studies or work experience sufficient to

provide the person with the ability and competence to

(1) anticipate and recognize the environmental factors and stresses associated with

work and work operations and to understand their effects on people and their well-being;

candidate. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

Subsection (c) requires candidates to "file" campaign treasurer statements within a specified time limit. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

The definition of "file" is well established in the law. It has been consistently held that a document is filed only when the proper officer has received it, and that it is not considered filed when it is deposited in the mails. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

Telephone conversation not appropriate filing. — Given the text of subsection (c), the legal

meaning of the term "file" and the supreme court's adoption of the doctrine that statutory election deadlines are to be strictly enforced, a telephone conversation between the candidate's treasurer and the Alaska Public Offices Commission seven days after the declaration of candidacy was filed cannot be deemed an appropriate filing within the intentment of subsection (c). *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by subsection (c) of this section. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

Sec. 15.13.065. Contributions. (a) Individuals, groups, nongroup entities, and political parties may make contributions to a candidate. An individual, group, or nongroup entity may make a contribution to a group, to a nongroup entity, or to a political party.

(b) A political party may contribute to a subordinate unit of the political party, and a subordinate unit of a political party may contribute to the political party of which it is a subordinate unit.

(c) Except for reports required by AS 15.13.040 and 15.13.110 and except for the requirements of AS 15.13.050, 15.13.060, and 15.13.112 — 15.13.114, the provisions of AS 15.13.010 — 15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition. In this subsection, in addition to its meaning in AS 15.60.010, "proposition" includes an issue placed on a ballot to determine whether

- (1) a constitutional convention shall be called;
- (2) a debt shall be contracted;
- (3) an advisory question shall be approved or rejected; or
- (4) a municipality shall be incorporated. (§ 9 ch 48 SLA 1996; am § 7 ch 1 SLA 2002)

Effect of amendments. — The 2002 amendment, effective April 15, 2002, inserted references to nongroup entities in three places in subsection (a) and made minor stylistic changes.

Sec. 15.13.067. Who may make expenditures. Only the following may make an expenditure in an election for candidates for elective office:

- (1) the candidate;
- (2) an individual;
- (3) a group that has registered under AS 15.13.050; and
- (4) a nongroup entity that has registered under AS 15.13.050. (§ 9 ch 48 SLA 1996; am § 8 ch 1 SLA 2002)

Effect of amendments. — The 2002 amendment, effective April 16, 2002, added paragraph (4) and made related stylistic changes.

Sec. 15.13.070. Limitations on amount of political contributions. (a) An individual or group may make contributions, subject only to the limitations of this chapter and AS 24.45, including the limitations on the maximum amounts set out in this section.

- (b) An individual may contribute not more than
 - (1) \$1,000 per year to a nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, or to a group that is not a political party;
 - (2) \$10,000 per year to a political party for the purpose of influencing the nomination or election of a candidate or candidates.
- (c) A group that is not a political party may contribute not more than
 - (1) \$2,000 per year to a candidate, or to an individual who conducts a write-in campaign as a candidate;

- (2) \$2,000 per year
- (3) \$4,000 per year
- (d) A political party write-in campaign, for
 - (1) \$100,000 per year
 - (2) \$15,000 per year
 - (3) \$10,000 per year
 - (4) \$5,000 per year,
- (A) delegate to a con
- (B) judge seeking re
- (C) municipal office.
- (e) This section does:
 - campaign contribution
 - (1) attendance by a sponsored by a political
 - (2) membership in a within a political party
 - (3) co-sponsorship o subordinate unit of a p
 - (f) A nongroup entit; entity for the purpose candidate, to an indivi or to a political party.

Cross references. — For campaign fund-raising 24.60.030.

Effect of amendments. effective January 1, 1997, re The 1998 amendment, effe subsection (e).

The first 2002 amendment in subsection (b) inserted the nongroup" and ending "of a (1); in subsection (c) inserted paragraph (2); and added st

The second 2002 amendi 2002, in subsection (b) ad influencing the nomination or candidates" at the end of

The 2003 amendment, 2003, increased the allowed tions (b), (c), and (f) and ma

Opinions of attorney ge be no difference between Elections Campaign Act of

Constitutionality. — Th vidual contributions for elect set forth in subsection (b) is, contribution limits do not pl on the ability of candidates t state election campaigns. *St ties Union*, 978 P.2d 597 (Al 528 U.S. 1153, 120 S. Ct. 1 (2000).

Limits on individuals' con political parties are reasona