



LAWS OF ALASKA

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Source

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Chapter No.

142

AN ACT

Relating to telephone solicitations, advertisements, and directory listings and relating to political polling and campaigning by telephone.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: August 6, 1996

Actual Effective Date: November 4, 1996

AN ACT

1 Relating to telephone solicitations, advertisements, and directory listings and relating to
2 political polling and campaigning by telephone.

3

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 CONVINCING. (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
15 to the defamed candidate only if the employer or person authorized the statement to

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1 be made, knowing that it was false or with reckless disregard for whether it was false
2 or not, as part of the poll or calls to convince.

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

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

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

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

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

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

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

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

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

22 (41) failing to comply with AS 45.50.475.

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

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

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

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

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

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

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

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

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

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

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

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

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1 information or policies and procedures that would have avoided the improper call.

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

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

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

8 (g) In this section,

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

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

12 (3) "telephone solicitation"

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

16 (B) does not include

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

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

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

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

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

1 not received a written request from the prospective purchaser asking
2 that telephone solicitations cease; the person or business enterprise is
3 presumed to have received a written request no later than 10 days after
4 the prospective purchaser mailed it, properly addressed and with the
5 appropriate postage;

6 * Sec. 5. AS 45.50.472 is repealed.