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INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS

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**STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 89, L.D. 277, Bill, “An Act To Ban Telephone Solicitations Using an Artificial or Prerecorded Voice and Enhance Caller Identification”

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 10 MRSA §1498, sub-§1, ¶A-1 is enacted to read:

A-1. "Misleading or inaccurate caller identification information" includes, to the extent consistent with federal law, blocked caller identification information.

Sec. 2. 10 MRSA §1498, sub-§2, as enacted by PL 1989, c. 775, is amended to read:

2. Prohibition. A person may not use an automated telephone calling device or an artificial or prerecorded voice to make solicitation calls to:

A. Any emergency telephone numbers in this State including, but not limited to, the emergency telephone numbers of any hospital, physician, health care facility, ambulance service, or fire or law enforcement officer or facility;

B. Any paging or cellular phone within the State; ~~or~~

C. Any unlisted, unpublished, toll-free long distance or direct inward dial telephone number within the State; or

D. Any residential telephone number within the State.

Sec. 3. 10 MRSA §1498, sub-§6, as enacted by PL 1989, c. 775, is amended to read:

6. Exceptions. This section does not prohibit the use of an automated telephone calling device or an artificial or prerecorded voice to:

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- 1 A. Inform purchasers of the receipt, availability or delivery of goods or services or
- 2 any other pertinent information on the status of any purchased goods or services;
- 3 B. Respond to a telephone inquiry initiated by the person to whom the automated
- 4 call or call using an artificial or prerecorded voice is directed; ~~or~~
- 5 C. Carry out the duties of any state or local governmental unit- or school
- 6 administrative unit or private school;
- 7 D. Deliver an emergency message by a governmental entity;
- 8 E. Deliver information with the prior, written, express consent of the recipient of the
- 9 call; or
- 10 F. Communicate with a business about reservations, purchases and other information
- 11 for customers such as hours of operation, directions and merchandise availability.

12 **Sec. 4. 10 MRSA §1499-A, sub-§1, ¶D**, as enacted by PL 2003, c. 70, §1 and
13 affected by §2, is amended to read:

14 D. "Telemarketing" means a plan, program or campaign that is conducted by use of
15 one or more telephones or other telecommunications services, including
16 interconnected voice over Internet protocol and text messaging, to induce the
17 purchase of goods or services or a charitable contribution ~~and that involves more than~~
18 ~~one intrastate telephone call~~. "Telemarketing" does not include the solicitation of
19 sales through the mailing of a catalog that contains a written description or
20 illustration of the goods or services offered for sale, the business address of the seller
21 and multiple pages of written material or illustrations, and that is issued not less
22 frequently than once a year, if the person making the solicitation does not solicit
23 customers by telephone but only receives calls initiated by customers in response to
24 the catalog and during those calls takes orders without further solicitation. For
25 purposes of this paragraph, ~~the term~~ "further solicitation" does not include providing
26 the customer with information about, or attempting to sell, any other item included in
27 the same catalog that prompted the customer's call or in a substantially similar
28 catalog.

29 **Sec. 5. 10 MRSA §1499-A, sub-§2**, as enacted by PL 2003, c. 70, §1 and
30 affected by §2, is repealed and the following enacted in its place:

31 **2. Prohibition.** It is an unfair trade practice, as prohibited by Title 5, section 207
32 and enforced by the Office of the Attorney General, for a seller or telemarketer to cause
33 any caller identification services to transmit misleading or inaccurate caller identification
34 information with the intent to defraud or cause harm to another person or to wrongfully
35 obtain anything of value.

36 **Sec. 6. 10 MRSA §1499-A, sub-§3**, as enacted by PL 2003, c. 70, §1 and
37 affected by §2, is repealed.

38 **Sec. 7. 10 MRSA §1499-A, sub-§4** is enacted to read:

39 **4. Exception.** It is not a violation of subsection 2 for:

- 40 A. A seller or telemarketer to substitute for the name and telephone number used in
- 41 or billed for making the call:

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(1) The name of the seller or charitable organization on whose behalf the telemarketing call is placed; or

(2) The seller's or charitable organization's customer or donor service telephone number that is answered during regular business hours; or

B. A telecommunications carrier, as defined in 47 United States Code, Section 153(51), to provide telecommunications service, as defined in 47 United States Code, Section 153(53).'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment adds a definition of misleading or inaccurate caller identification information to include blocked calls and adds language including interconnected voice over Internet protocol and text messaging, and removes the requirement for at least one intrastate call, in the definition of telemarketing. It adds an exception to the prohibition on use of automatic calls in order to communicate with a business about reservations, purchases and other information for customers such as hours of operation, directions and merchandise availability. The amendment removes language prohibiting blocked telemarketer caller identification information. The amendment adds language stating that violations of the prohibition on misleading or inaccurate telemarketer caller identification information that are violations of the Maine Unfair Trade Practices Act are enforceable by the Office of the Attorney General. The amendment changes the language describing transmission of misleading or inaccurate caller identification information to add a requirement for intent to defraud, cause harm or obtain anything of value. Finally, the amendment adds language stating that a telecommunications carrier providing telecommunications service as allowed by federal law is exempt from the prohibition on causing any caller identification services to transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm or obtain anything of value.

FISCAL NOTE REQUIRED

(See attached)