

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 720

Introduced by Schimek, 27.

Read first time January 09, 2008

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to telecommunications; to amend sections
2 49-1474.02, 86-242, 86-247, 86-248, 86-250, and 86-256,
3 Revised Statutes Cumulative Supplement, 2006; to change
4 requirements relating to recorded political messages and
5 messages delivered using automatic dialing-announcing
6 devices; to harmonize provisions; and to repeal the
7 original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 49-1474.02, Revised Statutes
2 Cumulative Supplement, 2006, is amended to read:

3 49-1474.02 (1) Any person who makes an expenditure
4 reportable under the Nebraska Political Accountability and
5 Disclosure Act to disseminate by any means of telecommunication a
6 prerecorded message or a recorded message relating to a candidate
7 or ballot question shall include, immediately preceding in the
8 message, the name of the person, including committees, making the
9 expenditure. Such messages shall be disseminated only between the
10 hours of 8 a.m. and 9 p.m. at the location of the person receiving
11 the messages.

12 (2) Any person who makes an expenditure reportable under
13 the act to disseminate by any means of telecommunication a message
14 relating to a candidate or ballot question which is not a recorded
15 message or a prerecorded message shall, immediately upon the
16 request of the recipient of the message, disclose the name of
17 the person, ~~including committees,~~ making the expenditure. If the
18 message is disseminated through an employee or agent of the person
19 making the expenditure, the employee or agent shall, immediately
20 upon the request of the recipient of the message, disclose the name
21 of the person, ~~including committees,~~ making the expenditure.

22 (3) Any person who makes an expenditure reportable under
23 the act to disseminate by any electronic means, including the
24 Internet or email, a message relating to a candidate or ballot
25 question shall include in the message the name of the person,

1 ~~including committees,~~ making the expenditure.

2 Sec. 2. Section 86-242, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 86-242 (1) Telephone solicitation means a telephone call
5 or message using an automatic dialing-announcing device for the
6 purpose of encouraging the purchase or rental of, or investment in,
7 property, goods, or services, which call or message is transmitted
8 to any person.

9 (2) Telephone solicitation does not include a call or
10 message ~~(1)~~ (a) made to any person with the person's prior express
11 invitation or permission, ~~(2)~~ (b) made to any person with whom the
12 caller has an established business relationship, ~~(3)~~ (c) made by a
13 tax-exempt nonprofit organization, ~~(4)~~ (d) not made for commercial
14 purposes, ~~(5)~~ (e) made for a commercial purpose but which does not
15 include the transmission of an unsolicited advertisement, or ~~(6)~~
16 (f) placed by a live operator and a prerecorded message is not
17 utilized.

18 Sec. 3. Section 86-247, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 86-247 ~~All telephone solicitation messages delivered by~~
21 Any person using an automatic dialing-announcing device to transmit
22 a recorded message shall:

23 (1) At the beginning of the message, state clearly the
24 identity of the person making the call and the identity of the
25 person on whose behalf the message is being transmitted; and

1 (2) During or after the message, state clearly the
2 telephone number, other than that of the device which made the
3 call, or address ~~of such person~~, at which the person using the
4 device and the person on whose behalf the device is being used may
5 be contacted; and

6 (3) Transmit messages only between the hours of 8 a.m.
7 and 9 p.m. at the location of the person receiving the message.

8 Sec. 4. Section 86-248, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 86-248 (1) A person shall not make a telephone
11 solicitation using an automatic dialing-announcing device to a
12 residential telephone line ~~(a) before 8 a.m. or after 9 p.m.~~
13 ~~at the location of the person called and (b) unless the caller~~
14 has instituted procedures for maintaining a list of telephone
15 subscribers who do not wish to receive telephone solicitations made
16 by or on behalf of the caller.

17 (2) The procedures instituted pursuant to ~~subdivision~~
18 ~~(1)(b)~~ of this section shall meet the following minimum standards:

19 (a) A written policy, available upon demand, for
20 maintaining a do-not-call list must be established;

21 (b) Personnel engaged in any aspect of telephone
22 solicitation must be informed of the existence of and trained in
23 the use of the do-not-call list;

24 (c) If a person making a telephone solicitation, or on
25 whose behalf a solicitation is made, receives a request from a

1 residential or business telephone subscriber not to receive calls
2 from that person, the person shall record the request and place
3 the subscriber's name and telephone number on the do-not-call list
4 and the time the request is made. If the requests are recorded
5 or maintained by someone other than the person on whose behalf
6 the telephone solicitation is made, the person on whose behalf the
7 solicitation is made shall be liable for any failure to honor the
8 do-not-call request. In order to protect a telephone subscriber's
9 privacy, a person making telephone solicitations shall obtain a
10 telephone subscriber's prior express consent to share the telephone
11 subscriber's request not to be called with, or to forward such
12 request to, someone other than the person on whose behalf a
13 telephone solicitation is made or an affiliated entity;

14 (d) A person making a telephone solicitation shall
15 provide the person called with the identity of the person making
16 the call and a telephone number, other than that of the device
17 which placed the call, or address at which the person may be
18 contacted;

19 (e) In the absence of a specific request by a telephone
20 subscriber to the contrary, a residential or business telephone
21 subscriber's do-not-call request shall apply to the particular
22 person making the call or on whose behalf a call is made and
23 shall not apply to affiliated entities unless the telephone
24 subscriber reasonably would expect them to be included given
25 the identification of the caller and the product being advertised;

1 and

2 (f) A person making telephone solicitations shall
3 maintain a do-not-call list for the purpose of any future telephone
4 solicitations.

5 Sec. 5. Section 86-250, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 86-250 (1) A person shall not connect or operate an
8 automatic dialing-announcing device for the purpose of making
9 telephone solicitations on any telephone line unless the person
10 has a current permit from the commission for the device. An
11 applicant for a permit shall make a written application to the
12 commission. The application shall be in a form prescribed by the
13 commission and shall require information about the type of device
14 proposed for connection and operation, the time of day telephone
15 solicitations will be made using the device, the anticipated
16 number of calls proposed to be placed during the specified calling
17 period, the average length of a completed call, or such alternative
18 or additional information as the commission may require. If the
19 applicant is an individual, the application shall include the
20 applicant's social security number. The applicant shall remit a fee
21 of five hundred dollars for each device with the application.

22 (2) Upon receiving an application for a permit, the
23 commission may grant, grant as modified, or deny the application.
24 The commission may modify or deny the permit if the commission
25 determines that (a) the applicant is unwilling or unable to

1 meet the requirements placed on such operations by law, rule, or
2 regulation or has failed to comply with the requirements in the
3 past, (b) the connection or operation of the device will result
4 in a significant decline in the quality of service or access to
5 service for other telephone users, (c) the applicant's equipment is
6 unable to meet the requirements of law, rule, or regulation, or (d)
7 the application does not contain adequate information.

8 (3) If a permit is granted, the permit shall remain in
9 force for two years from the date of issuance, and each application
10 for the renewal of a permit shall be treated as a new application.

11 (4) After receiving a permit but prior to connecting or
12 operating an automatic dialing-announcing device on any telephone
13 line, the permitholder shall notify the telephone company of the
14 telephone line on which the device is proposed to be connected
15 or operated. The telephone line shall be considered a business
16 telephone line. The telephone company shall release to the
17 commission the identity of any person connecting or operating
18 an automatic dialing-announcing device when requested to do so by
19 the commission pursuant to an investigation.

20 (5) A person contracting with a third party to connect
21 or operate an automatic dialing-announcing device for the purpose
22 of making telephone solicitations on any telephone line shall be
23 jointly and severally liable with the third party for connecting
24 and operating the automatic dialing-announcing device in violation
25 of the Automatic Dialing-Announcing Devices Act or the rules and

1 regulations adopted and promulgated under the act.

2 (6) A person contracting with a third party to connect
3 or operate an automatic dialing-announcing device for the purpose
4 of making telephone solicitations shall file with the commission
5 the script to be used to comply with the requirements of section
6 86-247. Such person shall file any subsequent change to the script
7 with the commission within five days after the change.

8 Sec. 6. Section 86-256, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 86-256 (1) Any person using an automatic
11 dialing-announcing device other than for telephone solicitations
12 shall register the device with the commission pursuant to the
13 application process, without a fee, and shall include with the
14 application a detailed explanation of the use planned and the
15 script to be used.

16 (2) A person contracting with a third party to connect
17 or operate an automatic dialing-announcing device for other
18 than telephone solicitations shall be jointly and severally
19 liable with the third party for connecting and operating the
20 automatic dialing-announcing device in violation of the Automatic
21 Dialing-Announcing Devices Act or the rules and regulations adopted
22 and promulgated under the act.

23 (3) A person contracting with a third party to connect
24 or operate an automatic dialing-announcing device for other than
25 telephone solicitations shall file with the commission the script

1 to be used. Such person shall file any subsequent change to the
2 script with the commission within five days after the change.

3 Sec. 7. Original sections 49-1474.02, 86-242, 86-247,
4 86-248, 86-250, and 86-256, Revised Statutes Cumulative Supplement,
5 2006, are repealed.