

**Introduced by Senator Figueroa**

December 4, 2000

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An act to add Article 8 (commencing with Section 17590) to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

SB 17, as introduced, Figueroa. Unsolicited and unwanted telephone solicitations.

Existing law prohibits certain unfair business practices, including certain advertising practices.

This bill would require an unspecified agency to maintain a "do not call" list, containing the telephone numbers of telephone subscribers who do not wish to receive unsolicited and unwanted telephone calls from telephone solicitors. It would prohibit, subject to certain exceptions, a telephonic solicitor from calling any telephone number on the then current "do not call" list to, among other things, seek to sell or lease any consumer goods or services. It would also prohibit persons who sell, lease, or rent telephone solicitation lists, except for directory assistance and telephone directories sold by telephone companies, from including in their lists telephone numbers that appear on the then current "do not call" list. Fees paid by telephone solicitors would be deposited in the Special Telephone Solicitors Fund created by the bill.

Existing law makes it a crime to violate any of the provisions governing advertising. By adding these new prohibitions to those provisions, this bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 8 (commencing with Section 17590) is  
2 added to Chapter 1 of Part 3 of Division 7 of the Business and  
3 Professions Code, to read:

4  
5 Article 8. Unsolicited and Unwanted Telephone Solicitations

6  
7 17590. (a) There is a compelling state interest to protect the  
8 privacy of telephone subscribers who wish to avoid unsolicited  
9 and unwanted telephone solicitations.

10 (b) The act of becoming a telephone subscriber should not  
11 undermine or lessen a person’s right of privacy as guaranteed  
12 under Section 1 of Article I of the California Constitution.

13 17591. (a) The \_\_\_\_ shall maintain a “do not call” list,  
14 updated no less frequently than quarterly, which shall set forth the  
15 telephone numbers, but not the names or addresses, of telephone  
16 subscribers, arranged by area code and numerical sequence, who  
17 do not wish to receive unsolicited and unwanted telephone calls  
18 from telephone solicitors as described in Section 17592. The “do  
19 not call” list shall indicate any exclusions designated by the  
20 telephone subscriber as provided in subdivision (b).

21 (b) Telephone subscribers may place their telephone numbers  
22 on the “do not call” list in the manner prescribed by the \_\_\_\_\_. A  
23 telephone subscriber may exclude from the coverage of the “do  
24 not call” list telephone calls made by the representative of any  
25 entity with which the subscriber or any member of the subscriber’s  
26 household has a bank or investment account, financial  
27 relationship, or insurance coverage, or from which the subscriber  
28 or household member has previously purchased goods or services.  
29 The telephone subscriber shall designate any exclusions in the  
30 manner prescribed by the \_\_\_\_\_.



1 (c) Telephone solicitors, as defined in Section 17592, may  
2 obtain copies of the “do not call” list by paying a fee to the \_\_\_\_  
3 in an amount not to exceed the costs incurred by the \_\_\_\_ in the  
4 preparation, production, and distribution of that list. The \_\_\_\_  
5 shall offer a statewide list and shall also offer lists of areas within  
6 the state. The determination of the number and definition of areas  
7 shall be within the discretion of the \_\_\_\_.

8 (d) It is the intent of the Legislature that the fees paid to the  
9 \_\_\_\_ by telephone solicitors be utilized by the \_\_\_\_ in carrying out  
10 this article and shall not exceed the actual estimated costs in  
11 carrying out this article. The fees obtained by the \_\_\_\_ shall be  
12 deposited in the Special Telephonic Solicitors Fund, which is  
13 hereby created. All moneys in the fund shall be subject to annual  
14 appropriation in the Budget Act.

15 (e) A person or entity that obtains a “do not call” list shall not  
16 use the list for any purpose other than to comply with this article.

17 (f) The procedures prescribed by the \_\_\_\_ for the  
18 implementation of this article shall not be subject to Chapter 3.5  
19 (commencing with Section 11340) of Part 1 of Division 3 of Title  
20 2 of the Government Code.

21 17592. (a) For purposes of this article, a “telephone  
22 solicitor” means any person or entity who, on his or her own  
23 behalf or through salespersons or agents or otherwise, does any of  
24 the following:

25 (1) Seeks to sell or lease any consumer goods or services or  
26 documents that can be used to obtain goods or services.

27 (2) Offers or solicits any extension of credit for personal,  
28 family, or household purposes.

29 (3) Seeks marketing information for any purpose.

30 (4) Seeks to sell any investment, insurance, or financial  
31 services.

32 (5) Makes any representation described in Section 17511.1.

33 (b) Except for telephone calls described in subdivision (d), no  
34 telephonic solicitor shall call any telephone number on the then  
35 current “do not call” list and do any of the following:

36 (1) Seek to sell or lease any consumer goods or services or  
37 documents that can be used to obtain goods or services.

38 (2) Offer or solicit any extension of credit for personal, family,  
39 or household purposes.

40 (3) Seek marketing information for any purpose.



1 (4) Seek to sell any investment, insurance, or financial  
2 services.

3 (5) Make any representation described in Section 17511.1.

4 (c) No person or entity which sells, leases, or rents telephone  
5 solicitation lists, except for directory assistance and telephone  
6 directories sold by telephone companies or their affiliates, shall  
7 include in those lists those telephone numbers that appear on the  
8 current “do not call” list.

9 (d) Subdivision (b) shall not apply to any of the following:

10 (1) Telephone calls made in response to the express request of,  
11 or an advertisement by, the person called.

12 (2) Telephone calls made in connection with the collection of  
13 a debt or the offer by a creditor to the person called of an extension  
14 of credit to pay a delinquent obligation owed by the person called  
15 to that creditor.

16 (3) Telephone calls that the telephone subscriber excluded  
17 from the coverage of the “do not call” list as provided in  
18 subdivision (b) of Section 17591.

19 (e) Nothing in this section prohibits a telephone solicitor from  
20 contacting by mail a telephone subscriber whose telephone  
21 number appears on the “do not call” list to obtain the subscriber’s  
22 express permission allowing the telephone solicitor to make the  
23 type of calls described in subdivision (b).

24 17593. (a) Any person who has received a telephone  
25 solicitation that is prohibited by Section 17592 may bring a civil  
26 action in any court of competent jurisdiction against a telephonic  
27 solicitor to recover or obtain any one or more of the following  
28 remedies:

29 (1) An order to enjoin the violation.

30 (2) A civil penalty of up to five hundred dollars (\$500) for the  
31 first violation and up to one thousand dollars (\$1,000) for a second  
32 and each subsequent violation.

33 (3) Court costs, including reasonable attorney’s fees.

34 (4) Any other relief that the court deems proper.

35 (b) Nothing in this article shall limit the authority of the  
36 Attorney General, district attorneys, or city attorneys under  
37 Chapter 5 (commencing with Section 17200) of Part 2 or under  
38 this part.



1 (c) The rights, remedies, and penalties established by this  
2 article are in addition to the rights, remedies, or penalties  
3 established under other laws.

4 SEC. 2. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution because  
6 the only costs that may be incurred by a local agency or school  
7 district will be incurred because this act creates a new crime or  
8 infraction, eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section 17556 of  
10 the Government Code, or changes the definition of a crime within  
11 the meaning of Section 6 of Article XIII B of the California  
12 Constitution.

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