

HOUSE BILL NO. 750

INTRODUCED BY D. FERN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE COMMISSIONER OF POLITICAL PRACTICES TO INVESTIGATE AND PROSECUTE ALLEGED VIOLATIONS OF AUTOMATED TELEPHONE SOLICITATIONS DURING ELECTIONS; PROVIDING A CIVIL PENALTY; AND AMENDING SECTIONS 13-37-128 AND 45-8-216, MCA."

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

NEW SECTION. Section 1. Enforcement of automated telephone solicitation prohibition -- penalty. (1) An allegation of a violation of 45-8-216 for the purpose of promoting a political campaign or for any use related to a political campaign may be filed with, investigated by, and prosecuted by the commissioner of political practices if the alleged violation occurred within 60 days before an election.

(2) The provisions of this section do not apply to any use exclusively related to a federal political campaign.

Section 2. Section 13-37-128, MCA, is amended to read:

"13-37-128. Cause of action created. (1) A person who intentionally or negligently violates any of the reporting provisions of this chapter, a provision of 13-35-225, or a provision of Title 13, chapter 35, part 4, is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contributions or expenditures, whichever is greater.

(2) A person who makes or receives a contribution or expenditure in violation of 13-35-227, 13-35-228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contribution or expenditure, whichever is greater.

(3) A person who intentionally or negligently violates 45-8-216 and is prosecuted under [section 1] is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the expenditures used for the

1 unlawful telephone calls, whichever is greater."

2

3 **Section 3.** Section 45-8-216, MCA, is amended to read:

4 **"45-8-216. Unlawful automated telephone solicitation -- exceptions -- penalties.** (1) A person may
5 not use an automated telephone system, device, or facsimile machine for the selection and dialing of telephone
6 numbers and playing of recorded messages if a message is completed to the dialed number for the purpose of:

7 (a) offering goods or services for sale;

8 (b) conveying information on goods or services in soliciting sales or purchases;

9 (c) soliciting information;

10 (d) gathering data or statistics; or

11 (e) promoting a political campaign or any use related to a political campaign.

12 (2) This section does not prohibit the use of an automated telephone system, device, or facsimile
13 machine described under subsection (1) for purposes of informing purchasers of the receipt, availability for
14 delivery, delay in delivery, or other pertinent information on the status of any purchased goods or services, of
15 responding to an inquiry initiated by any person, or of providing any other pertinent information when there is a
16 preexisting business relationship. This section does not prohibit the use of an automated telephone system or
17 device if the permission of the called party is obtained by a live operator before the recorded message is
18 delivered.

19 (3) A person violating subsection (1) is subject to a fine of not more than \$2,500 and a penalty under
20 13-37-128 subject to [section 1]."

21

22 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an
23 integral part of Title 13, chapter 35, part 2, and the provisions of Title 13, chapter 35, part 2, apply to [section 1].

24

- END -