

**SB 1560 (Senator Figueroa) - Telephone Solicitations**

**As amended April 1, 2002**

**Recommendation:** Support

**Summary:** This bill clarify what businesses may obtain the “Do Not Call” list free of charge, and prohibits businesses from re-selling the “Do Not Call” list.

**Comments:** The bill has no direct impact on the CPUC. It is consumer-friendly and Telco Division recommends support.

**Analysis:** Existing law allows consumers to place their phone numbers on a “Do Not Call” list/database maintained by the Attorney General. As of January 1, 2003, the program will enable consumers, for a fee not exceeding \$1.00 for three years, to place their phone numbers on the list. If a telephone solicitor wants to call Californians, the solicitor will be required to purchase the list at cost and will be prohibited from calling the phone numbers on the list. The bill provides for both civil and criminal liability for a violation of these provisions.

This bill clarifies existing law by providing that businesses with the equivalent of five or fewer independent contractors or employees may obtain the list for free. Moreover, the bill clarifies that the “Do Not Call” list may only be obtained from the Attorney General and that third parties may not re-sell it after obtaining it from the Attorney General.

**Legislative History**

Senate Bill 771 (Figueroa, Chapter 695, Statutes of 2001) established the “Do Not Call” list maintained by the Attorney General, requires solicitors to purchase a copy of the list from the Attorney General, and prohibits solicitors from calling persons on the list. Existing law provides for both civil and criminal penalties for a violation of these provisions.

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## Bill Language

BILL NUMBER: SB 1560 AMENDED  
BILL TEXT

AMENDED IN SENATE APRIL 1, 2002

INTRODUCED BY Senator Figueroa

FEBRUARY 20, 2002

An act to amend Section 17591 of the Business and Professions Code, relating to telephone solicitations.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1560, as amended, Figueroa. Telephone solicitations.

Existing law prohibits certain unfair business practices, including certain advertising practices. Existing law requires the Attorney General, not later than January 1, 2003, to maintain a "do not call" list, containing the telephone numbers and ZIP Codes of residential or wireless telephone subscribers who do not wish to receive unsolicited and unwanted telephone calls from telephone solicitors. Existing law requires telephone solicitors to pay a fee to the Attorney General to obtain copies of the "do not call" list. Existing law provides that it is unlawful for a person to obtain a "do not call" list for specified purposes. Existing law makes it a crime to violate any of the provisions governing advertising.

This bill would provide that it is unlawful for a person to obtain a "do not call" list for the purpose of selling or leasing the list to a person other than a telephone solicitor or for the purpose of a telephone solicitor selling or leasing the list. The bill would ~~also~~ prohibit any person, other than the Attorney General, from ~~purchasing~~ *selling* or leasing the list ~~from any person other than the Attorney General unless the Attorney General has authorized that purchase or lease~~. *The bill would also prohibit a person from purchasing the list except from the Attorney General.*

Because a violation of this bill's provisions with respect to advertising would be a crime, this bill would impose 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:

SECTION 1. Section 17591 of the Business and Professions Code is amended to read:

17591. (a) The Attorney General shall not later than January 1, 2003, maintain a "do not call" list, updated no less frequently than quarterly, which shall set forth the California telephone numbers and ZIP Codes, but not the names or addresses, of subscribers, arranged by area code and numerical sequence, who do not wish to receive unsolicited and unwanted telephone calls from telephone solicitors as defined in Section 17592. The "do not call" list shall indicate any exclusions designated by the subscriber as provided in subdivision (b).

(b) Subscribers may place their telephone numbers and ZIP Codes on the "do not call" list in the manner prescribed by the Attorney General. The subscriber's placement on the "do not call" list shall expire three years after the date on which the subscriber's telephone number and ZIP Code first became available on the list to telephone solicitors. The Attorney General shall triennially charge these subscribers a fee not to exceed one dollar (\$1.00). A subscriber may exclude from the coverage of the "do not call" list telephone calls from entities identified by the subscriber. The subscriber shall designate any exclusions in the manner prescribed by the Attorney General.

(c) Telephone solicitors, as defined in Section 17592, shall obtain copies of the "do not call" list by paying a fee to the Attorney General in an amount not to exceed the costs incurred by the Attorney General in the preparation, maintenance, production, and distribution of that list. The Attorney General shall establish a sliding scale fee schedule, charging a telephone solicitor with more than 1,000 employees or independent contractors the maximum fee and charging a telephone solicitor with fewer than *the equivalent of five full-time employees or independent contractors* no fee. The Attorney General shall provide a telephone solicitor the option of paying this fee on a quarterly or annual basis. The Attorney General shall offer a statewide list and shall also offer lists of areas within the state. The determination of the number and definition of areas shall be within the discretion of the Attorney

General. It shall be a violation of this ~~section for any person other than the Attorney General to purchase or lease the "do not call" list from a person other than the Attorney General without the authorization of the Attorney General.~~ *section for anyone, other than the Attorney General, to sell or lease this list.*

*It shall be a violation of this section for anybody to purchase this list except from the Attorney General.*

(d) The Attorney General shall utilize the best available, cost-effective technology to ensure that subscribers may easily place their telephone numbers on the "do not call" list. This technology includes, but is not limited to, methods by which a subscriber may effect placement on the list by using a state-designated Internet Web site or a designated, statewide toll-free telephone number. When the subscriber utilizes the toll-free telephone number method, the subscriber shall call from the telephone that is also the number to be included on the list. The Attorney General shall also utilize the best available, cost-effective technology to ensure that telephone solicitors may easily obtain and manipulate the "do not call" list. This technology may include, but is not limited to, methods that are computer compatible and that allow the downloading of the list and the sorting of the list by ZIP Code and that make the list available on CD-ROM. The Attorney General may contract with a private vendor to establish, maintain, and administer the "do not call" list and a contract entered into in that regard shall include appropriate provisions to protect the confidentiality of subscriber information. The Attorney General may promulgate regulations to implement the provisions of this article.

(e) It is the intent of the Legislature that the fees paid to the Attorney General by telephone solicitors and subscribers be utilized by the Attorney General in carrying out this article. The Attorney General shall annually reduce the amount of the fee paid by subscribers and telephone solicitors set forth in this section based on revenue history and costs so that the fees do not exceed the actual estimated costs in carrying out this article. The fees obtained by the Attorney General shall be deposited in the Special Telephone Solicitors Fund, which is hereby created. All moneys in the fund shall be subject to annual appropriation in the Budget Act.

(f) A person or entity that obtains a "do not call" list shall not use the list for any purpose other than to comply with this article.

These unlawful purposes include, but are not limited to, selling or leasing the "do not call" list to a person other than a telephone solicitor, selling or leasing the "do not call" list by a telephone solicitor, causing a subscriber to participate in and be included on, the "do not call" list without the subscriber's knowledge or consent, selling or leasing the "do not call" list to a person other

than a telephone solicitor, selling or leasing by a telephone solicitor of the "do not call" list, and a telephone solicitor, either directly or indirectly, persuading a subscriber with whom it has an established business relationship to place his or her telephone number on the "do not call" list, if the solicitation has the effect of preventing competitors from contacting that solicitor's customers.

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