

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal, no statement issued**

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**Action:** Do Pass as Amended and Be Printed Engrossed

**Vote:** 4 - 1 - 0

**Yeas:** Deckert, Monnes Anderson, Starr, Metsger

**Nays:** George L.

**Exc.:** 0

**Prepared By:** Janet Adkins, Administrator

**Meeting Dates:** 3/16, 4/26

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**WHAT THE MEASURE DOES:** Prohibits callers from using automatic dialing and announcing devices (ADADs) if the phone customer incurs unwanted expense unless the phone customer has requested or permitted the call. Provides exceptions for callers who have an established business relationship with the customer, emergency law enforcement calls, callers from schools, and callers regulated through the federal Fair Debt Collection Practices Act. Requires ADADs to disconnect ten seconds after the customer ends the call and to block calls to fire, law enforcement or emergency numbers, health care facilities, no-call listing, paging service and to cellular numbers if the call causes the customer unwanted expense. Prohibits a caller from falsifying his or her identity, phone number, location, or purpose. Makes violation of provisions enforceable under the unlawful trade practice investigation and enforcement process in ORS 646.632 but limits civil penalty to \$5,000 per violation. Declares emergency and takes effect on passage.

**ISSUES DISCUSSED:**

- History of regulating automated calling devices
- Benefit of reduced expense to campaigns and other automated calling user
- Annoyance and privacy factors
- Potential harms that could result from either live caller or automated caller
- Free speech issues

**EFFECT OF COMMITTEE AMENDMENT:** Deletes requirement that automatic announcing state certain information immediately. Deletes authority of Attorney General or subscriber to bring action for injunction and treble damages. Deletes provision tying measure to approval of a constitutional amendment by voters. Deletes blocking of calls to senior residential facilities. Exempts callers regulated through the federal fair debt collections act. Prohibits a caller using a device from misrepresenting or falsifying information. Makes violation of provisions enforceable under the unlawful trade practices process. Limits civil penalty enforcement to \$5,000 per violation. Adds emergency clause.

**BACKGROUND:** Automatic Dialing and Announcing Devices (ADADs) are used increasingly for advertising, political campaigning, and information dissemination. They offer a relatively quick and inexpensive way to reach or notify many people, either randomly or as a targeted group. The Oregon Supreme Court in *Moser vs. Frohnmayer* (1993) found that a previous law forbidding the use of ADADs for commercial solicitation, other than for political or charitable purposes, was unconstitutional by violation of free speech provisions in the Oregon Constitution (Article I section 8). This decision was based on the court's finding that the calls were "speech," and the prohibition was content-based because of its exemptions for charitable and political purposes. The court also noted that the Legislature had not identified harmful effects of ADAD solicitations. Several states have laws forbidding ADADs except under certain circumstances. These laws have raised questions of federal preemption by the Telephone Consumer Protection Act (TCPA). A case out of the Eighth U.S. Circuit Court of Appeals found that a Minnesota statute forbidding use of ADADs for commercial or governmental solicitation was not pre-empted by the federal TCPA; the decision is not binding on Oregon. Senate Bill 863-A requires that certain numbers be blocked by ADADs including no-call list registrants and medical and emergency numbers and bases other prohibitions on the harm of unwanted expense.

5/11/2007 12:29:00 PM

***This summary has not been adopted or officially endorsed by action of the committee.***