

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	7 - 0 - 0
Yeas:	Berger, Buckley, Esquivel, Hunt, Roblan, Thatcher, Rosenbaum
Nays:	0
Exc.:	0
Prepared By:	Theresa Van Winkle, Administrator
Meeting Dates:	6/6

WHAT THE MEASURE DOES: Requires callers using automatic dialing and announcing devices (ADADs) to block calls to fire, law enforcement, and emergency agencies; health care facilities; and no-call list subscribers. Provides exceptions to calls placed to no-call list subscribers if the caller has an established business relationship with the subscriber; is regulated under the federal Fair Debt Collection Practices Act; represents a public safety or law enforcement agency; or represents a school district if the subscriber is a school employee, student, or a student's parent, guardian or family member. Allows ADAD calls to be made only between the hours of 9 a.m. and 9 p.m. Requires ADADs to disconnect within ten seconds after the call has ended. Prohibits callers from falsifying their identities, phone numbers, locations, or purposes. Makes violations enforceable under Oregon's Unlawful Trade Practices Act. Limits civil penalties to \$5,000 per violation.

ISSUES DISCUSSED:

- How the measure allows automated phone calls to be utilized with a level of regulation
- Penalties for violations
- Determining whether a telephone number is for a wireless phone versus a landline
- Who is penalized for violating the measure's provisions

EFFECT OF COMMITTEE AMENDMENT: Removes the provision that prohibits callers from using automatic dialing and announcing devices (ADADs) if the phone customer incurs unwanted expense. Clarifies exceptions for devices to be used in calling a no-call list subscriber. Removes the requirement for devices to block calls to pagers, cellular phones, or similar types of services. Removes the 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 in 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.

The laws of several states forbid ADADs except under certain circumstances, but these laws have raised questions of federal preemption by the Telephone Consumer Protection Act (TCPA). In a U.S. Eighth Circuit Court of Appeals' case, a Minnesota statute forbidding use of ADADs for commercial or governmental solicitation was determined to not be pre-empted by the federal TCPA. 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.

6/7/2007 4:01:00 PM

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