

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	5 - 2 - 0
Yeas:	Berger, Edwards C., Esquivel, Smith P., Schaufler
Nays:	Holvey, Rosenbaum
Exc.:	0
Prepared By:	Theresa Van Winkle, Administrator
Meeting Dates:	5/21, 5/30

WHAT THE MEASURE DOES: Establishes a new definition of “telecommunications” and updates the definition of “telecommunications service” in statutes related to the regulation of telecommunications utilities. 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. Establishes violations as enforceable under Oregon’s Unlawful Trade Practices Act but limits civil penalties to \$5,000 per violation.

ISSUES DISCUSSED:

- Background on the Task Force on Telecommunications Law Revision
- Current statute not keeping up with changes in technology
- Amendments similar in scope to HB 2621, relating to the deregulation of telephone rates
- Citizens’ frustration with automated phone calls
- Enforceability and constitutionality of the measure’s provisions
- Why debt collectors are exempt
- Impact on political campaigns with limited budgets

EFFECT OF COMMITTEE AMENDMENT: 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. Establishes violations as enforceable under Oregon’s Unlawful Trade Practices Act but limits civil penalties to \$5,000 per violation.

BACKGROUND: SB 17 (2005) created the Task Force on Telecommunications Law Revision to review ORS chapter 759 and other laws relating to telecommunications. The measure directed the task force to revise statutory provisions to reflect changing technology, to correct inconsistent terminology, and to make Oregon laws consistent with federal requirements. The task force recommended changes to the definitions section, which are incorporated into SB 982-A. The changes are intended to update the language without changing the authority of the Public Utility Commission.

The definition of telecommunications service in ORS 759.005 currently refers only to “two-way switched access and transport of voice communications.” This definition is outdated and narrow and does not specify that to be considered a service it must be offered for a fee. The new definition of telecommunications and the revised definition of telecommunications service in SB 982-A are consistent with federal definitions.

Automatic Dialing and Announcing Devices (ADADs) are sometimes used 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. SB 982-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.