



February 18, 2020

ENGROSSED HOUSE BILL No. 1109

DIGEST OF HB 1109 (Updated February 13, 2020 11:13 am - DI 135)

Citations Affected: IC 24-5.

Synopsis: Telephone solicitation and consumer credit. Amends the law requiring telemarketers to register with the office of the attorney general (registration law) as follows: (1) Provides that a seller is not subject to the registration law solely because the seller makes or will make a solicitation in a telephone call that is exempt from the Do Not Call statute. (2) Restores conditions removed by P.L.242-2019 that limit application of the registration law to sellers that make certain types of solicitations. (3) Provides that a solicitation occurs for purposes of the registration law only in a telephone call made by a seller. (4) Removes the requirement that a seller must provide in the seller's registration statement information as to whether the seller (or any officer, director, trustee, general partner, manager, principal, executive, or representative of the seller) has been: (A) held liable in certain civil actions; (B) convicted of certain crimes during the most recent seven years; or (C) declared bankrupt during the most recent seven years. Repeals from the statute governing consumer sales the chapter that sets forth certain requirements for a consumer reporting agency that uses a Social Security number as a factor in determining whether a file maintained by the consumer reporting agency matches the identity of an individual who is the subject of a credit inquiry.

Effective: Upon passage; January 1, 2020 (retroactive).

Lehman, Ellington, Lauer, Hatfield

(SENATE SPONSORS — WALKER, MESSMER, RANDOLPH LONNIE M)

January 8, 2020, read first time and referred to Committee on Utilities, Energy and Telecommunications.

January 16, 2020, amended, reported — Do Pass.

January 21, 2020, read second time, ordered engrossed. Engrossed.

January 23, 2020, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 5, 2020, read first time and referred to Committee on Utilities.

February 17, 2020, reported favorably — Do Pass.

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February 18, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1109

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-5-12-0.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2020 (RETROACTIVE)]: **Sec. 0.2. This chapter does**
4 **not apply to a seller solely because the seller makes or will make,**
5 **during any calendar year, a solicitation in a telephone call that is**
6 **exempt from the application of IC 24-4.7 under IC 24-4.7-1-1.**
7 SECTION 2. IC 24-5-12-8, AS AMENDED BY P.L.242-2019,
8 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JANUARY 1, 2020 (RETROACTIVE)]: Sec. 8. As used in this
10 chapter, "seller" means a person who, personally, through salespersons,
11 or through the use of an automated dialing and answering device,
12 makes a solicitation **if in the solicitation any one (1) of the following**
13 **occurs:**
14 (1) **There is a false representation or implication that a**
15 **prospect will receive a gift, prize, or the value of a gift or**
16 **prize.**
17 (2) **There is an offer of a vacation at a reduced price if the**

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1 vacation involves the prospect attending a presentation in
 2 which the prospect is solicited to purchase a time share or
 3 camping club membership and if the seller does not own the
 4 time share or camping club, does not represent the owner of
 5 the time share or camping club, or misrepresents the value of
 6 the vacation. Terms in this subdivision have the meaning set
 7 forth in IC 32-32.

8 (3) There is a representation or implication that a prospect
 9 who buys office equipment or supplies will, because of some
 10 unusual event or imminent price increase, be able to buy these
 11 items at prices that are below those that are usually charged
 12 or will be charged for the items if the price advantage for the
 13 prospect does not exist.

14 (4) There is a false representation or implication as to the
 15 identity of the person making the solicitation.

16 (5) There is a representation or implication that the items for
 17 sale are manufactured or supplied by a person other than the
 18 actual manufacturer or supplier.

19 (6) There is an offer to sell the prospect precious metals,
 20 precious stones, coal, or other minerals, or any interest in oil,
 21 gas, or mineral fields, wells, or exploration sites, if the seller
 22 does not own the items, does not represent the owner, or
 23 misrepresents the value of the items.

24 SECTION 3. IC 24-5-12-9 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]:
 26 Sec. 9. As used in this chapter, "solicitation" means a telephone
 27 conversation or attempted telephone conversation **that occurs in a**
 28 **telephone call made by a seller to another person** in which the seller
 29 offers, or attempts to offer, an item to ~~another~~ **the other** person in
 30 exchange for money or other consideration.

31 SECTION 4. IC 24-5-12-10, AS AMENDED BY P.L.242-2019,
 32 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JANUARY 1, 2020 (RETROACTIVE)]: Sec. 10. (a) **Except as**
 34 **provided in section 0.2 of this chapter**, before doing business in
 35 Indiana, a seller must register with the division.

36 (b) A ~~person seller~~ does business in Indiana if the ~~person solicits:~~
 37 **seller makes or will make a solicitation during any calendar year:**

38 (1) from a location in Indiana; or

39 (2) to a prospect who is located in Indiana.

40 SECTION 5. IC 24-5-12-12 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]:
 42 Sec. 12. The registration statement must contain the following



- 1 information:
- 2 (1) The name of the seller.
- 3 (2) Whether the seller is doing business as a corporation, a
- 4 partnership, an individual, or ~~other another~~ legal entity.
- 5 (3) The names under which the seller has done, is doing, or
- 6 intends to do business.
- 7 (4) The name of any parent or affiliated business that will engage
- 8 in business transactions with the prospect or will take
- 9 responsibility for statements made by the seller or a salesperson
- 10 of the seller.
- 11 (5) The names, dates of birth, business addresses, business
- 12 telephone numbers, and titles of all the seller's officers, directors,
- 13 trustees, general partners, general managers, principals,
- 14 executives, and any other person charged with responsibility for
- 15 the seller's business activities relating to telephone sales.
- 16 (6) The length of time the seller has:
- 17 (A) solicited telephone sales; and
- 18 (B) solicited telephone sales for the items to be offered to the
- 19 prospect.
- 20 (7) A statement of the amount to be paid by the prospect, or when
- 21 not known, the approximate amount or range of amount to be
- 22 paid.
- 23 (8) A complete and detailed description of any service that the
- 24 seller proposes to undertake to perform for a prospect who
- 25 purchases the item offered.
- 26 (9) An unexecuted copy of all contracts that may be offered in the
- 27 transaction being solicited.
- 28 (10) The complete street address or addresses of all locations,
- 29 designating the principal location from which the seller will be
- 30 conducting business, and, if the principal location is outside
- 31 Indiana, a designation of its principal location within Indiana.
- 32 (11) A listing of all telephone numbers to be used by the seller
- 33 and the address of each location using these numbers.
- 34 (12) A copy of all sales scripts the seller requires salespersons to
- 35 use when soliciting a prospect or, if no sales script is required to
- 36 be used, a statement to that effect.
- 37 (13) The name and address of the seller's agent in Indiana,
- 38 authorized to receive service of process in Indiana.
- 39 ~~(14) A statement as to whether the seller or any of its officers;~~
- 40 ~~directors; trustees; general partners; managers; principals;~~
- 41 ~~executives; or representatives has been:~~
- 42 (A) held liable in a civil action for an unfair, false, misleading;



1 or deceptive practice;
2 (B) convicted of a crime involving fraud, embezzlement,
3 conversion, or theft during the most recent seven (7) year
4 period; or
5 (C) declared bankrupt in any judicial proceeding during the
6 most recent seven (7) year period:
7 (15) A statement containing the names of the parties, the name of
8 the court, the cause or docket number of the lawsuit, the date the
9 suit was filed, and the date the judgment was entered, if
10 applicable; for each action under subdivision (14):
11 SECTION 6. IC 24-5-24.7 IS REPEALED [EFFECTIVE UPON
12 PASSAGE]. (Use of Consumer's Social Security Number in Credit
13 Files).
14 SECTION 7. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1109, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 5. IC 24-5-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]:
Sec. 12. The registration statement must contain the following information:

- (1) The name of the seller.
- (2) Whether the seller is doing business as a corporation, a partnership, an individual, or ~~other~~ **another** legal entity.
- (3) The names under which the seller has done, is doing, or intends to do business.
- (4) The name of any parent or affiliated business that will engage in business transactions with the prospect or will take responsibility for statements made by the seller or a salesperson of the seller.
- (5) The names, dates of birth, business addresses, business telephone numbers, and titles of all the seller's officers, directors, trustees, general partners, general managers, principals, executives, and any other person charged with responsibility for the seller's business activities relating to telephone sales.
- (6) The length of time the seller has:
 - (A) solicited telephone sales; and
 - (B) solicited telephone sales for the items to be offered to the prospect.
- (7) A statement of the amount to be paid by the prospect, or when not known, the approximate amount or range of amount to be paid.
- (8) A complete and detailed description of any service that the seller proposes to undertake to perform for a prospect who purchases the item offered.
- (9) An unexecuted copy of all contracts that may be offered in the transaction being solicited.
- (10) The complete street address or addresses of all locations, designating the principal location from which the seller will be conducting business, and, if the principal location is outside Indiana, a designation of its principal location within Indiana.



(11) A listing of all telephone numbers to be used by the seller and the address of each location using these numbers.

(12) A copy of all sales scripts the seller requires salespersons to use when soliciting a prospect or, if no sales script is required to be used, a statement to that effect.

(13) The name and address of the seller's agent in Indiana, authorized to receive service of process in Indiana.

~~(14) A statement as to whether the seller or any of its officers, directors, trustees, general partners, managers, principals, executives, or representatives has been:~~

~~(A) held liable in a civil action for an unfair, false, misleading, or deceptive practice;~~

~~(B) convicted of a crime involving fraud, embezzlement, conversion, or theft during the most recent seven (7) year period; or~~

~~(C) declared bankrupt in any judicial proceeding during the most recent seven (7) year period.~~

~~(15) A statement containing the names of the parties, the name of the court, the cause or docket number of the lawsuit, the date the suit was filed, and the date the judgment was entered, if applicable, for each action under subdivision (14).~~

SECTION 6. IC 24-5-24.7 IS REPEALED [EFFECTIVE UPON PASSAGE]. (Use of Consumer's Social Security Number in Credit Files)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1109 as introduced.)

SOLIDAY

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred House Bill No. 1109, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1109 as printed January 17, 2020.)

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MERRITT, Chairperson

Committee Vote: Yeas 10, Nays 0

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