

# HOUSE BILL No. 1266

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4.7-1-1; IC 24-5-12.

**Synopsis:** Telephone solicitation. Makes a technical correction to a citation to a federal regulation in the "do not call" statute. Provides that the statute requiring telephone solicitors to register with the consumer protection division of the attorney general's office (registration statute) does not apply to the following: (1) A seller if the solicitation made by the seller: (A) is made in a telephone call that is exempt from the "do not call" statute; or (B) is not made in a telephone call to a residential telephone number. (2) A manufacturer or dealer of motor vehicles (or to any agent or representative of a manufacturer or dealer). Specifies that for purposes of the registration statute: (1) a "prospect" means a person with whom the seller does not have an established business relationship; and (2) a "solicitation" means a telephone conversation or attempted telephone conversation that occurs in a telephone call made by a seller to a prospect. Specifies that the registration statement that must be submitted by a seller to the consumer protection division must list certain required information only with respect to any (rather than all, under current law) of the persons charged with responsibility for the seller's business activities relating to telephone sales. Eliminates the requirement that the registration statement must include specified information regarding civil or criminal actions or bankruptcies involving sellers.

**Effective:** January 1, 2020 (retroactive).

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## Ellington

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January 14, 2020, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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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.

# HOUSE BILL No. 1266



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 24-4.7-1-1, AS AMENDED BY P.L.242-2019,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2020 (RETROACTIVE)]: Sec. 1. This article does not  
4 apply to any of the following:

- 5 (1) A telephone call made in response to an express request of the  
6 person called.
- 7 (2) A telephone call made primarily in connection with an  
8 existing debt or contract for which payment or performance has  
9 not been completed at the time of the call.
- 10 (3) A telephone call made on behalf of a charitable organization  
11 that is exempt from federal income taxation under Section 501 of  
12 the Internal Revenue Code, but only if all of the following apply:
- 13 (A) The telephone call is made by a volunteer or an employee  
14 of the charitable organization.
- 15 (B) The telephone solicitor who makes the telephone call  
16 immediately discloses all of the following information upon  
17 making contact with the consumer:



- 1 (i) The solicitor's true first and last name.  
 2 (ii) The name, address, and telephone number of the  
 3 charitable organization.
- 4 (4) A telephone call made by an individual licensed under  
 5 IC 25-34.1 if:  
 6 (A) the sale of goods or services is not completed; and  
 7 (B) the payment or authorization of payment is not required;  
 8 until after a face to face sales presentation by the seller.
- 9 (5) A telephone call made by an individual licensed under  
 10 IC 27-1-15.6 or IC 27-1-15.8 when the individual is soliciting an  
 11 application for insurance or negotiating a policy of insurance on  
 12 behalf of an insurer (as defined in IC 27-1-2-3).
- 13 (6) A telephone call soliciting the sale of a newspaper of general  
 14 circulation, but only if the telephone call is made by a volunteer  
 15 or an employee of the newspaper.
- 16 (7) Any telephone call made to a consumer by a communications  
 17 service provider (as defined in IC 8-1-32.5-4) that:  
 18 (A) offers broadband Internet service; and  
 19 (B) has an established business relationship (as defined in ~~47~~  
 20 ~~CFR 64.1200~~) **47 CFR 64.1200(f)(5)**) with the consumer.
- 21 (8) Any telephone call made to a consumer by:  
 22 (A) a financial institution organized or reorganized under the  
 23 laws of any state or the United States; or  
 24 (B) a person licensed by the department of financial  
 25 institutions under IC 24-4.4, IC 24-4.5, or 750 IAC 9;  
 26 that has an established business relationship (as defined in ~~47~~  
 27 ~~CFR 64.1200~~) **47 CFR 64.1200(f)(5)**) with the consumer.
- 28 SECTION 2. IC 24-5-12-0.2 IS ADDED TO THE INDIANA CODE  
 29 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 30 **JANUARY 1, 2020 (RETROACTIVE)]**: **Sec. 0.2. (a) This chapter**  
 31 **does not apply to a seller if the solicitation made by the seller:**  
 32 **(1) is made in a telephone call that is exempt from the**  
 33 **application of IC 24-4.7 under IC 24-4.7-1-1; or**  
 34 **(2) is not made in a telephone call to a residential telephone**  
 35 **number.**
- 36 **(b) This chapter does not apply to the following:**  
 37 **(1) A manufacturer (as defined in IC 9-13-2-97(b)) or any**  
 38 **agent or representative of a manufacturer.**  
 39 **(2) A dealer (as defined in IC 9-32-2-9.6(a)) or any agent or**  
 40 **representative of a dealer.**
- 41 SECTION 3. IC 24-5-12-6 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]:



1 Sec. 6. As used in this chapter, "prospect" means a person:

2 (1) solicited by a seller; **and**

3 (2) **with which the seller does not have an established business**  
 4 **relationship (as defined in 47 CFR 64.1200(f)(5)).**

5 SECTION 4. IC 24-5-12-9 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]:

7 Sec. 9. As used in this chapter, "solicitation" means a telephone  
 8 conversation or attempted telephone conversation **that occurs in a**  
 9 **telephone call made by a seller to a prospect** in which the seller  
 10 offers, or attempts to offer, an item to ~~another person~~ **the prospect** in  
 11 exchange for money or other consideration.

12 SECTION 5. IC 24-5-12-12 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]:

14 Sec. 12. The registration statement must contain the following  
 15 information:

16 (1) The name of the seller.

17 (2) Whether the seller is doing business as a corporation, a  
 18 partnership, an individual, or other legal entity.

19 (3) The names under which the seller has done, is doing, or  
 20 intends to do business.

21 (4) The name of any parent or affiliated business that will engage  
 22 in business transactions with the prospect or will take  
 23 responsibility for statements made by the seller or a salesperson  
 24 of the seller.

25 (5) The names, dates of birth, business addresses, business  
 26 telephone numbers, and titles of all the seller's officers, directors,  
 27 trustees, general partners, general managers, principals,  
 28 executives, and any other person charged with responsibility for  
 29 the seller's business activities relating to telephone sales.

30 (6) The length of time the seller has:

31 (A) solicited telephone sales; and

32 (B) solicited telephone sales for the items to be offered to the  
 33 prospect.

34 (7) A statement of the amount to be paid by the prospect, or when  
 35 not known, the approximate amount or range of amount to be  
 36 paid.

37 (8) A complete and detailed description of any service that the  
 38 seller proposes to undertake to perform for a prospect who  
 39 purchases the item offered.

40 (9) An unexecuted copy of all contracts that may be offered in the  
 41 transaction being solicited.

42 (10) The complete street address or addresses of all locations,



1 designating the principal location from which the seller will be  
 2 conducting business, and, if the principal location is outside  
 3 Indiana, a designation of its principal location within Indiana.

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

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

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

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

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

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

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

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

25 **SECTION 6. An emergency is declared for this act.**

