

# HOUSE BILL No. 1601

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4.7-3-6; IC 24-5.

**Synopsis:** Telephone solicitations. Allows the consumer protection division (division) of the office of the attorney general to use the consumer protection division telephone solicitation fund (fund) to: (1) administer the statutes concerning: (A) the registration of telephone solicitors; and (B) the regulation of automatic dialing machines; and (2) reimburse county prosecutors for expenses incurred in extraditing violators of these and other state and federal statutes concerning telephone solicitations. (Current law provides that the fund may only be used to administer: (1) the state's "do not call" statute; (2) the federal statute concerning restrictions on the use of telephone equipment; and (3) the state statute concerning misleading or inaccurate caller identification.) Provides that certain civil penalties recovered by the attorney general for violations of the statutes concerning: (1) the registration of telephone solicitors; and (2) the regulation of automatic dialing machines; shall be deposited in the fund. Amends the statute concerning the registration of telephone solicitors to require all sellers attempting to solicit prospects by telephone to register with the division before doing business in Indiana. (Current law only requires registration by sellers who offer one or more items with a total value of more than \$100 and less than \$50,000.) Increases the level of existing criminal offenses for violations of the state statutes concerning: (1) the registration of telephone solicitors; (2) the regulation of automatic dialing machines; and (3) misleading or inaccurate caller identification.

**Effective:** July 1, 2019.

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**Wright**

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January 22, 2019, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1601

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 24-4.7-3-6, AS AMENDED BY P.L.65-2014,  
2       SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2019]: Sec. 6. (a) The consumer protection division telephone  
4       solicitation fund is established for the ~~purpose of~~ **following purposes**:

5       **(1) The administration of:**

6       ~~(1)~~ **(A)** this article;

7       ~~(2)~~ **(B)** IC 24-5-0.5-3(b)(19); and

8       **(C) IC 24-5-12;**

9       **(D) IC 24-5-14; and**

10      ~~(3)~~ **(E)** IC 24-5-14.5.

11      **(2) The reimbursement of county prosecutors for expenses**  
12      **incurred in extraditing violators of any statute set forth in**  
13      **subdivision (1).**

14      The fund shall be used exclusively for ~~this purpose~~. **these purposes.**

15      (b) The division shall administer the fund.

16      (c) ~~The division shall deposit~~ **fund consists of** all revenue received:

17      (1) under this article;



(2) from civil penalties ~~deposited~~ **recovered** under IC 24-5-0.5-4(h); and

**(3) from civil penalties recovered after June 30, 2019, under IC 24-5-12-23(b);**

**(4) from civil penalties recovered after June 30, 2019, under IC 24-5-14-13(b); and**

~~(3)~~ **(5)** from civil penalties ~~deposited~~ **recovered** under IC 24-5-14.5-12.

~~in the fund.~~

(d) Money in the fund is continuously appropriated to the division for the ~~administration of:~~

~~(1) this article;~~

~~(2) IC 24-5-0.5-3(b)(19); and~~

~~(3) IC 24-5-14.5-~~ **purposes set forth in subsection (a).**

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the amount of money in the fund at the end of a particular state fiscal year exceeds two hundred thousand dollars (\$200,000), the treasurer of state shall transfer the excess from the fund to the state general fund.

SECTION 2. IC 24-5-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) Before doing business in Indiana a seller must register with the division if the seller attempts a solicitation under which the seller offers ~~an item~~ **one (1) or more items where the total consideration has a value of more than one hundred dollars (\$100) and less than fifty thousand dollars (\$50,000): to a prospect.**

(b) A person does business in Indiana if the person solicits:

(1) from a location in Indiana; or

(2) a prospect who is located in Indiana.

SECTION 3. IC 24-5-12-22, AS AMENDED BY P.L.158-2013, SECTION 275, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 22. A seller who fails to comply with sections 10 through 16 of this chapter commits a Level ~~6~~ **5** felony.

SECTION 4. IC 24-5-12-23, AS AMENDED BY P.L.222-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 23. **(a)** A seller who fails to comply with any provision of:

(1) this chapter; or

(2) IC 24-4.7;

commits a deceptive act that is actionable by the attorney general under IC 24-5-0.5-4(c) and is subject to the penalties set forth in IC 24-5-0.5. An action for a violation of IC 24-4.7 may be brought under



1 IC 24-5-0.5-4(c) or IC 24-4.7-5. An action by the attorney general for  
 2 a violation of this chapter or IC 24-4.7 may be brought in the circuit or  
 3 superior court of Marion County.

4 **(b) A civil penalty recovered by the attorney general under:**

5 **(1) IC 24-5-0.5-4(g); or**

6 **(2) IC 24-5-0.5-8;**

7 **for a violation of this chapter shall be deposited in the consumer**  
 8 **protection division telephone solicitation fund established by**  
 9 **IC 24-4.7-3-6 to be used for the administration and enforcement of**  
 10 **this chapter.**

11 SECTION 5. IC 24-5-14-10 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. A caller who fails  
 13 to comply with this chapter commits a ~~Class C misdemeanor~~. **Level 6**  
 14 **felony.**

15 SECTION 6. IC 24-5-14-13 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. **(a)** A caller who  
 17 violates this chapter commits a deceptive act that is actionable by the  
 18 attorney general under IC 24-5-0.5-4 and that is subject to the remedies  
 19 and penalties under IC 24-5-0.5-4(c), IC 24-5-0.5-4(d),  
 20 IC 24-5-0.5-4(f), IC 24-5-0.5-4(g), and IC 24-5-0.5-8.

21 **(b) A civil penalty recovered by the attorney general under:**

22 **(1) IC 24-5-0.5-4(g); or**

23 **(2) IC 24-5-0.5-8;**

24 **for a violation of this chapter shall be deposited in the consumer**  
 25 **protection division telephone solicitation fund established by**  
 26 **IC 24-4.7-3-6 to be used for the administration and enforcement of**  
 27 **this chapter.**

28 SECTION 7. IC 24-5-14.5-11, AS ADDED BY P.L.151-2013,  
 29 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2019]: Sec. 11. A person who knowingly violates this chapter  
 31 commits a ~~Class B misdemeanor~~. ~~However, the offense is a Class A~~  
 32 ~~misdemeanor if the person has a previous unrelated conviction under~~  
 33 ~~this chapter.~~ **Level 6 felony.**

