

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 720

FINAL READING

Introduced by Schimek, 27.

Read first time January 09, 2008

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to telecommunications; to amend sections
2 49-1474.02, 86-242, 86-247, 86-250, and 86-256,
3 Revised Statutes Cumulative Supplement, 2006; to change
4 requirements relating to recorded political messages and
5 messages delivered using automatic dialing-announcing
6 devices; to harmonize provisions; to provide an operative
7 date; and to repeal the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 49-1474.02, Revised Statutes
2 Cumulative Supplement, 2006, is amended to read:

3 49-1474.02 (1) Any person who makes an expenditure
4 reportable under the Nebraska Political Accountability and
5 Disclosure Act to disseminate by any means of telecommunication a
6 prerecorded message or a recorded message relating to a candidate
7 or ballot question shall include, immediately preceding in the
8 message, the name of the person, including committees, making the
9 expenditure. Such messages shall be disseminated only between the
10 hours of 8 a.m. and 9 p.m. at the location of the person receiving
11 the messages.

12 (2) Any person who makes an expenditure reportable under
13 the act to disseminate by any means of telecommunication a message
14 relating to a candidate or ballot question which is not a recorded
15 message or a prerecorded message shall, immediately upon the
16 request of the recipient of the message, disclose the name of
17 the person, ~~including committees,~~ making the expenditure. If the
18 message is disseminated through an employee or agent of the person
19 making the expenditure, the employee or agent shall, immediately
20 upon the request of the recipient of the message, disclose the name
21 of the person, ~~including committees,~~ making the expenditure.

22 (3) Any person who makes an expenditure reportable under
23 the act to disseminate by any electronic means, including the
24 Internet or email, a message relating to a candidate or ballot
25 question shall include in the message the name of the person,

1 ~~including committees,~~ making the expenditure.

2 Sec. 2. Section 86-242, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 86-242 (1) Telephone solicitation means a telephone call
5 or message using an automatic dialing-announcing device for the
6 purpose of encouraging the purchase or rental of, or investment in,
7 property, goods, or services, which call or message is transmitted
8 to any person.

9 (2) Telephone solicitation does not include a call or
10 message ~~(1)~~ (a) made to any person with the person's prior express
11 invitation or permission, ~~(2)~~ (b) made to any person with whom the
12 caller has an established business relationship, ~~(3)~~ (c) made by a
13 tax-exempt nonprofit organization, ~~(4)~~ (d) not made for commercial
14 purposes, ~~(5)~~ (e) made for a commercial purpose but which does not
15 include the transmission of an unsolicited advertisement, or ~~(6)~~
16 (f) placed by a live operator and a prerecorded message is not
17 utilized.

18 Sec. 3. Section 86-247, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 86-247 All telephone solicitation messages ~~delivered~~
21 transmitted by an automatic dialing-announcing device shall:

22 (1) At the beginning of the message, state clearly the
23 identity of the person making the call; and

24 (2) During or after the message, state clearly the
25 telephone number, other than that of the device which made the

1 call, or address of such person.

2 Sec. 4. Section 86-250, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 86-250 (1) A person shall not connect or operate an
5 automatic dialing-announcing device for the purpose of making
6 telephone solicitations on any telephone line unless the person
7 has a current permit from the commission for the device. An
8 applicant for a permit shall make a written application to the
9 commission. The application shall be in a form prescribed by the
10 commission and shall require information about the type of device
11 proposed for connection and operation, the time of day telephone
12 solicitations will be made using the device, the anticipated
13 number of calls proposed to be placed during the specified calling
14 period, the average length of a completed call, or such alternative
15 or additional information as the commission may require. If the
16 applicant is an individual, the application shall include the
17 applicant's social security number. The applicant shall remit a fee
18 of five hundred dollars for each device with the application.

19 (2) Upon receiving an application for a permit, the
20 commission may grant, grant as modified, or deny the application.
21 The commission may modify or deny the permit if the commission
22 determines that (a) the applicant is unwilling or unable to
23 meet the requirements placed on such operations by law, rule, or
24 regulation or has failed to comply with the requirements in the
25 past, (b) the connection or operation of the device will result

1 in a significant decline in the quality of service or access to
2 service for other telephone users, (c) the applicant's equipment is
3 unable to meet the requirements of law, rule, or regulation, or (d)
4 the application does not contain adequate information.

5 (3) If a permit is granted, the permit shall remain in
6 force for two years from the date of issuance, and each application
7 for the renewal of a permit shall be treated as a new application.

8 (4) After receiving a permit but prior to connecting or
9 operating an automatic dialing-announcing device on any telephone
10 line, the permitholder shall notify the telephone company of the
11 telephone line on which the device is proposed to be connected
12 or operated. The telephone line shall be considered a business
13 telephone line. The telephone company shall release to the
14 commission the identity of any person connecting or operating
15 an automatic dialing-announcing device when requested to do so by
16 the commission pursuant to an investigation.

17 (5) A person contracting with a third party to connect
18 or operate an automatic dialing-announcing device for the purpose
19 of making telephone solicitations on any telephone line shall be
20 jointly and severally liable with the third party for connecting
21 and operating the automatic dialing-announcing device in violation
22 of the Automatic Dialing-Announcing Devices Act or the rules and
23 regulations adopted and promulgated under the act.

24 (6) A person contracting with a third party to connect
25 or operate an automatic dialing-announcing device for the purpose

1 of making telephone solicitations shall file with the commission
2 the message to be used to comply with the requirements of section
3 86-247. Such person shall file any subsequent change to the message
4 with the commission within five days after the change.

5 Sec. 5. Section 86-256, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 86-256 (1) Any person using an automatic
8 dialing-announcing device other than for telephone solicitations
9 shall register the device with the commission pursuant to the
10 application process, without a fee, and shall include with the
11 application a detailed explanation of the use planned and the
12 script message to be used.

13 (2) All telephone messages transmitted by an automatic
14 dialing-announcing device other than telephone solicitations shall:

15 (a) At the beginning of the message, state clearly the
16 identity of the person on whose behalf the message is being
17 transmitted;

18 (b) During or after the message, state clearly the
19 telephone number, other than that of the device which made the
20 call, or address of the person operating the device; and

21 (c) Transmit messages only between the hours of 8 a.m.
22 and 9 p.m. at the location of the person receiving the message.

23 (3) This section does not apply to (a) a message from
24 any elementary, secondary, or postsecondary educational institution
25 to any of its students, parents, or employees, (b) a message to a

1 person with whom the person placing the call or the person on whose
2 behalf the message is being transmitted has an established business
3 or personal relationship, (c) a message from an employer advising
4 any of its employees of work schedules, or (d) a message from a
5 political subdivision as defined in section 13-903.

6 (4) A person contracting with a third party to connect
7 or operate an automatic dialing-announcing device for other
8 than telephone solicitations shall be jointly and severally
9 liable with the third party for connecting and operating the
10 automatic dialing-announcing device in violation of the Automatic
11 Dialing-Announcing Devices Act or the rules and regulations adopted
12 and promulgated under the act.

13 (5) A person contracting with a third party to connect
14 or operate an automatic dialing-announcing device for other
15 than telephone solicitations shall file with the commission the
16 message to be used within twenty-four hours after the message is
17 transmitted.

18 Sec. 6. This act becomes operative on January 1, 2009.

19 Sec. 7. Original sections 49-1474.02, 86-242, 86-247,
20 86-250, and 86-256, Revised Statutes Cumulative Supplement, 2006,
21 are repealed.