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HOUSE BILL NO. 1436

Offered January 12, 2011

Prefiled November 8, 2010

A BILL to amend and reenact §§ 59.1-518.1 and 59.1-518.2 of the Code of Virginia, relating to the use of automatic dialing-announcing devices in debt collection communications.

Patron—Loupassi

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-518.1 and 59.1-518.2 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-518.1. Definitions.

As used in this chapter:

"Automatic dialing-announcing device" means a device that (i) selects and dials telephone numbers and (ii) working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.

"Caller" means a person that attempts to contact, or contacts, a subscriber in the Commonwealth by using a telephone or telephone line.

"Commercial telephone solicitation" means any unsolicited call to a subscriber when (i) the person initiating the call has not had a prior business or personal relationship with the subscriber and (ii) the purpose of the call is to solicit the purchase or the consideration of the purchase of goods or services by the subscriber. The term does not include calls initiated by the Commonwealth or a political subdivision for exclusively public purposes.

"Debt" means any obligation or alleged obligation of an individual to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

"Debt collection communication" means a message intended, directly or indirectly, to solicit the payment of a debt.

"Subscriber" means (i) a person who has subscribed to telephone service from a telephone company or (ii) other persons living or residing with the person.

§ 59.1-518.2. When automatic dialing-announcing devices prohibited.

A. A caller shall not use an automatic dialing-announcing device in connection with making a commercial telephone solicitation unless:

1. The subscriber has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message, or

2. The message is immediately preceded by a live operator who, after disclosing (i) the name of the entity sending the message, (ii) the purpose of the message, (iii) the kinds of goods or services the message is promoting, and (iv), if applicable, the fact that the message intends to solicit payment or the commitment of funds, obtains the subscriber's consent before the commercial telephone solicitation is delivered.

B. Unless a subscriber has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the debt collection communication, or a court of competent jurisdiction has expressly permitted the caller to use an automatic dialing-announcing device to make a debt collection communication to the subscriber:

1. A caller shall not use an automatic dialing-announcing device to make a debt collection communication to a subscriber unless:

a. The communication is immediately preceded by a live operator who discloses to the subscriber (i) the name of the entity sending the message, (ii) the original creditor of the debt, if different from the entity sending the message, (iii) the current holder of the debt, if different from the original creditor of the debt, and (iv) that the message is a debt collection communication intended, directly or indirectly, to solicit the payment of a debt;

b. The caller obtains, prior to delivering the voice message to the subscriber, the subscriber's consent to receipt of the debt collection communication; and

c. The subscriber is provided the opportunity, both prior to the delivery of the message and throughout delivery of the message, to converse with a live operator in order (i) to notify the caller that the debt, or a portion thereof, is disputed, (ii) to request that the caller not make further debt collection

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59 *communications to the subscriber, or (iii) to obtain the name and mailing address of the original*
60 *creditor in order to permit the subscriber to notify the original creditor in writing that the debt, or any*
61 *portion thereof, is disputed; and*

62 *2. A caller shall not use an automatic dialing-announcing device to make a debt collection*
63 *communication to a subscriber:*

64 *a. Within 30 days following a previous debt collection communication to the subscriber made by the*
65 *caller by an automatic dialing-announcing device if the subscriber, in the course of the previous debt*
66 *collection communication, notified the caller that the debt, or a portion thereof, is disputed or requested*
67 *the caller not to make further debt collection communications; or*

68 *b. In a manner that causes the subscriber's telephone to ring repeatedly or continuously with intent*
69 *to annoy, abuse, or harass the subscriber.*