

MINUTES

MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on March 17, 1995, at  
8:00 a.m.

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)  
Sen. Steve Benedict, Vice Chairman (R)  
Sen. William S. Crismore (R)  
Sen. C.A. Casey Emerson (R)  
Sen. Ken Miller (R)  
Sen. Mike Sprague (R)  
Sen. Gary Forrester (D)  
Sen. Terry Klampe (D)  
Sen. Bill Wilson (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council  
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 356  
Executive Action: SB 356 TABLED  
HB 387 BE CONCURRED IN

HEARING ON SB 356

Opening Statement by Sponsor:

SEN. BILL WILSON, Senate District 22, Great Falls, presented SB 357 which was an act regulating personal solicitation sales by telephone and facsimile transmission. He said telemarketing was a \$400 billion business in the United States. He declared there was no way to tell how much of that business was fraudulent, but it was estimated to be in the range of \$10 billion annually. He reported during Congressional hearings in 1991, it was estimated senior citizens lost \$5 billion to telemarketing fraud. He said the elderly were often targeted because many seniors were lonely. He related the con artist also knew their memory was sometimes poor, they were less likely to take notes, and probably would not ask for written guarantees.

**SEN. WILSON** stated the main thrust of the bill was found in Section 5, page 3. He maintained this bill provided for a no solicitation calls list which a person could be placed on and this list provided a penalty for solicitation callers. He stated it provided that a telephone solicitor may not make or cause to be made any unsolicited sales calls to this number. He related a telephone solicitor may not sell or offer to sell information that included a person's telephone, facsimile, or paging device number if the number was on the no solicitation calls list. He said the penalty for noncompliance was \$500 to be collected by the Department of Revenue and those funds would be used for enforcement.

**SEN. WILSON** said Section 7 dealt with credit card transactions. He maintained it provided a merchant who engaged a telephone solicitor to make, or cause to be made, telephone sales calls to a consumer's credit card account until the merchant had received from the consumer a written verification of the consumer's agreement to purchase the item offered for sale by the telephone solicitor. He asserted nonprofit organizations were excluded under this bill.

**Proponents' Testimony:**

**Rene Worley** presented her written testimony, **EXHIBIT #1** and a list of companies who scammed money from her mother, **EXHIBIT #2**.

**Bill Fliener, Montana Sheriffs and Peace Officers Association**, stated for the last three years they had a partnership with the Montana Agency on Aging Association. They were working with banking associations throughout the state as well. He related when seniors were contacted and went to their bank to make the large withdrawals, it was their hope the bank alerted them before they withdrew large sums of money.

**Bill Olson, American Association of Retired Persons**, presented his written testimony, **EXHIBIT #3** and handouts, **EXHIBITS #4** and **#5**.

**Mike Voeller, Lee Newspapers of Montana and Montana Magazine**, presented his written testimony, **EXHIBIT #6**, and an amendment, **EXHIBIT #7**.

**Annie Bartos, Chief Legal Counsel, Montana Department of Commerce**, stated the Department believed this bill promoted consumer protection in the state and therefore it supported **SB 356**. She presented handouts to the committee, **EXHIBITS #9** and **#10**, which were brochures they handed out at seminars and conferences regarding telemarketing fraud.

**Ms. Bartos** also asked that the committee consider the fiscal note. She maintained without the resources, this law became unenforceable. She announced the Department had submitted five amendments, **EXHIBIT #8**, and she explained them to the committee.

Amendment 1 deleted the exemptions which were located on page two because they appeared twice on page two.

Amendment 2 was to insert on page 2, line 13, "in excess of \$25.00". Any type of personal services or goods in which there had been consideration offered in excess of \$25.00, would become a substantive part of this bill. Amounts under \$25.00 become a frivolous complaint.

Amendment 3 on page 3, line 23, clarified the telemarketer had the obligation to contact the Department of Commerce and to request in writing from the Department that the no solicitation calls list be provided to them. The telemarketer was then refrained from calling any consumer until the no solicitation calls list was obtained from the Department. This would also require the Department to update the no solicitation calls list on a quarterly basis.

Amendment 4 would tie into Amendment 5 which would establish the district court of the First Judicial District in Lewis and Clark County had the exclusive jurisdiction for all causes of action under this law. Any individual or entity who engaged in personal solicitation and/or telephone solicitation in Montana would be subject to the jurisdiction of the State of Montana.

**Beth Baker, Department of Justice**, stated they supported SB 356. Last year Congress passed a strong telemarketing bill which went a long way to help consumers; however, it provided a consumer could only bring a direct action if their damages exceeded \$50,000 and in Montana, that was not workable. She maintained consumers should be able to bring actions before they incurred damages of that significance. She declared federal law did not preempt state law in this area. She said the fiscal note could be reduced by striking Section 11 which would remove state enforcement. She expressed this would still give the Department of Commerce some responsibility, but would minimize the amount of state resources necessary to enforce other violations of the law. She said private causes of action would be available to consumers who were damaged. She supported the Department's amendments.

**Vern Klingensmith** explained the problems his sister had with telemarketing fraud. The harder she tried to get money back from those programs, the worse the problem became until she was in serious financial trouble and almost lost her home. He read a letter from the Office of the District Attorney in Georgia to his sister, **EXHIBIT #10-A**. She had been scammed out of \$10,000 in a two month period by Westbound Distributing. He also presented the questionnaire attached as an enclosure to the letter, **EXHIBIT #10-B**. He contended scam artists were destroying peoples lives, and older people were extremely vulnerable.

#### Opponents' Testimony:

**Barbara Ranf, US West**, presented amendments for the committee's consideration, **EXHIBIT #11**. She commented that SB 356 proposed to set limitations on telephone solicitations for two stated purposes; to protect the public from fraud, deception and

misinformation and to encourage competition and fair dealing by solicitors. US West endorsed the purpose this bill sought to inject; however, any legislation which placed restrictions on communications must balance individual privacy rights, public safety interests, commercial freedoms of speech and trade in a way which protected the privacy of individuals.

**Ms. Ranf** related in 1991, Congress passed legislation to address this issue. She maintained the regulations became effective on October 16, 1992 and they applied to all businesses in the United States. She stated the federal law established company specific "do not call lists". If someone called and they did not wish to be called again, they stated that they did not want to be called again, and this put the burden of compliance on the business. She stated it banned unsolicited advertisements to facsimile machines and banned before 8:00 a.m. and after 9:00 p.m. local time. She said it prohibited computerized or prerecorded voice calls to residences except in emergencies, with prior consent or under an established business relationship. She said it provided consumers with a private right of action for any violation in state court for the amount of the fraud or \$500.

**Ms. Ranf** said consumers also used the Federal Communications Commission's (FCC) complaint procedure to have the FCC take enforcement action. She related it also permitted states to initiate a civil action against a telemarketer with a pattern of violations. She asserted those federal laws did allow a state to preempt the federal law by passing more restrictive regulations on telephone solicitations on intra-state business. She stated **SB 356** would apply only to Montana businesses.

**Ms. Ranf** presented to the committee six amendments, **EXHIBIT #11**, and explained them.

The first amendment was found on page 1, line 30. It would insert the language "which were primarily for personal, family, or household purposes,". This would include business to business solicitation calls.

The second amendment on page 3, line 10, the exemption part read, "(g) the seller was subject to the jurisdiction of the public service commission or the federal communications commission." After the word seller, they inserted "or its affiliate". The way this legislation was currently written, it would be impossible for US West to publish phone books in this state without being in violation of the law. US West Communications sold phone service in this state. As part of that, there was a courtesy listing in the directory. The directories were not published by US West Communications. They were published by a separate subsidiary which did not have the existing business relationship with the telephone consumer and was not regulated by the Public Service Commission or the FCC. US West was regulated by the Securities and Exchange Commission.

The third amendment allowed notification via facsimile machine.

The fourth amendment dealt with the credit card transaction section. It inserted not only in writing but also by telephone, electronic means, facsimile, etc., that the notification from the consumer could occur. This bill required there be a written notice from the consumer before charging to a credit card. Credit card transactions did not happen that way. The bill defined the return of goods on buyer's right to cancel. If goods had been consumed or altered, there was a financial responsibility on behalf of the buyer.

The fifth amendment added services as well. The intent of that was the responsibility to pay for services consumed prior to cancelling a service was the buyers. An example would be if the consumer switched long distance companies and still had \$50 worth of long distance calls to pay for, the buyer would still be responsible for that service.

The sixth amendment asked to strike Section 14 in its entirety. This section placed the responsibility for consumer education and the cost of notification on US West and the other local telephone exchange companies in Montana. There were two reasons why they opposed this section. First, US West received numerous phone calls from customers who had concerns about telephone solicitation. They currently provided them with consumer tip information, **EXHIBITS #12 and #13**. Second, they believed the Department of Commerce had the responsibility and other means available to inform consumers and businesses of this law.

**Ms. Ranf** contended Section 5 also needed a close look. She stated there were only four states which had no solicitation calls list; two of those states were currently repealing their statutes.

**Leo Berry, MCI Telecommunications**, stated there was a problem with the bill which needed to be addressed. MCI believed this bill was overly broad in its application. He proposed an amendment to narrow the scope of the bill. On page 2, lines 28-29, the exemption section exempted personal solicitations which (page 3, line 10) "(g) the seller was subject to the jurisdiction of the public service commission". They would propose on page 2 that in addition to personal solicitations the language "telephone solicitations" be added. He stated there was a new definition in this bill of telephone solicitations. He claimed telemarketing efforts of companies such as MCI, AT&T, etc. would be covered by this bill. He stated those efforts were currently regulated by the Montana Public Service Commission and the FCC, and this bill would duplicate that regulation.

**Brad Griffin, Montana Retail Association**, presented his written testimony, **EXHIBIT #14**.

**Bill Squires, Montana Directories**, stated their opposition to this bill. Montana Directories was a locally owned telephone book publishing company. It was owned by three of Montana's rural telephone cooperatives. They believed a better product

could be produced locally while also providing local jobs. Their concern was that this bill would bring business communication under the purview of this act. He maintained the bill exempted entities regulated by the Public Service Commission or the Federal Communications Commission. He contended Montana's Rural Cooperatives were not regulated by the PSC but were regulated by the FCC.

**Mr. Squires** supported the reform intended in this bill and asked the committee to look very closely at the amendments. He added there was a real question as to whether the state had the authority to regulate and fine persons calling on intrastate calls. They supported the amendment proposed by US West which would exempt business to business communication from this bill. He declared with regard to consumer notification, it was much easier for them to insert those notifications in the telephone books and bills. He stated this would be enforced by the Public Service Commission and the fiscal note did not include any reference to that.

{Tape: 1; Side: B}

**Ross Cannon, Direct Marketing Association**, stated they had a national free service where people who received unwanted telemarketing calls had their name on a no solicitation list. He stated the bill required that anyone calling identify themselves. He contended federal law preempted where intrastate marketing was involved. They asked that the committee bring this bill into conformance with federal law.

**Mr. Cannon** declared they proposed an amendment which would strike Section 5 and replace it with the provisions of the federal act so the language would be the same, **EXHIBIT #15**. He related this required written policy, training, disclosure and maintenance of the list. In Section 6, they would again ask that the federal law relating to disclosure be included. In Section 7, they would ask that there be more time granted for making credit card refunds. He presented an additional handout, **EXHIBIT #16**.

**Jim Tutweiler, Montana Chamber of Commerce**, stated the Chamber supported the intent of this bill but disagreed with the impact it would have. They were particularly concerned about the impact it had on business to business solicitation.

Informational Testimony: None

Questions From Committee Members and Responses:

**SEN. MIKE SPRAGUE** asked **Mr. Tutweiler** if the establishment of a Better Business Bureau could have solved most of this. **Mr. Tutweiler** stated there were a number of resources for people who thought they had been victimized. He maintained the boiler room operations would not let this bill stop them.

**SEN. SPRAGUE** asked **Ms. Bartos** the same question. **Ms. Bartos** answered the problem she saw with a Better Business Bureau in this state was it would not be a state agency and it would not have the ability to enforce the law.

**SEN. KEN MILLER** asked **SEN. WILSON** if this bill would only affect in-state solicitation and **SEN. WILSON** answered that would be correct.

**SEN. MILLER** asked how they would address out-of-state solicitors and **Ms. Bartos** said she believed this bill would give a state agency the authority to enforce this law against a telemarketer in another state. She said the issues which would be raised involved a constitutional issue as to whether or not a state agency had the ability to regulate intrastate business.

**SEN. MILLER** asked **Ms. Bartos** if a \$500 fine would be fiscally worthwhile to handle an out-of-state solicitor and **Ms. Bartos** commented the fiscal impact was a concern of the Department. She said the Department would need to investigate the complaint, file a complaint in district court, and, if a judgment was obtained, they would need to make the judgment good in another state. She stated a \$500 fine would be difficult to collect from boiler room operations which were usually fly-by-night operations.

**SEN. GARY FORRESTER** stated it would also be an identifying factor. He said many times the fact that a boiler room operation was identified by a state agency, would cause that operation to cease operations for awhile. **Ms. Bartos** stated identification would help the situation. They would hope to be able to coordinate activities with the Federal Trade Commission at a national level.

**SEN. CASEY EMERSON** asked **Ms. Baker** about her comment regarding a \$50,000 loss minimum. **Ms. Baker** replied the \$50,000 limit she referred to was in the federal statute as a requirement for a private citizen to bring an action against a fraudulent telemarketer. She said that did not preclude the state Attorney General or the Department of Commerce from pursuing an action for less damages. The federal law did not preempt any state law which expressly allowed the state to legislate in this area.

**SEN. SPRAGUE** asked how this bill would address programs such as QVC? **Ms. Baker** did not feel they would be covered because it was the consumer who initiated the purchase. She contended the advertiser was not making direct contact with the consumer.

**SEN. TERRY KLAMPE** asked **Ms. Ranf** to comment on the intrastate issues and she stated she was not an attorney. She read from the federal statutes as follows: "The Telephone Consumer Protection Act did not preempt state laws which imposed more restrictive intrastate requirements or regulations regarding . . . the use of facsimile machines . . . the use of automatic telephone dialing systems and the use of artificial or prerecorded voice messages

in making a telephone solicitation. However the TCPA preempts state law where it conflicted with the technical procedures requirements."

Closing by Sponsor:

SEN. WILSON reiterated that telemarketing fraud was a widespread problem which needed to be addressed. He was willing to work with the committee on any of the amendments. If Section 5 was not left intact, the bill was useless.

EXECUTIVE ACTION ON HB 387

Motion: SEN. STEVE BENEDICT MOVED HB 387 BE CONCURRED IN.

Discussion: SEN. SPRAGUE stated the sponsor was adamant that the claims history would be more important than the driving record.

SEN. EMERSON stated that driving habits show up in claims history.

SEN. WILLIAM CRISMORE stated they were discussing two entirely different things. He stated even vandalism would cause a new rate. He explained your rate was determined on your cost to the insurance company.

SEN. BENEDICT felt this was a good bill. He conveyed insurance companies needed to rate on claims experience.

SEN. SPRAGUE commented they were dealing with a three year increment. He maintained if your driving record was good for three years, you had a rate discount. He explained by changing this from driving record and to claims history, the insurance company had an advantage.

Ron Asherbrenner, State Farm Insurance, commented that this bill was brought about due to a situation which existed between State Farm and the Commissioner's Office. He stated there was a mutual concern about the language which existed. He declared presently, State Farm insured one-third of the drivers in Montana. He said eighty thousand insureds received the good driver discount without this legislation. He stated the danger was that someone could interpret the language as it applied to motor vehicle records as having been used to determine good driver discounts, and that was not true. Mr. Asherbrenner stated they based this on claim activity. He declared a person with a DUI could get good driver discounts. He said payments would trigger removing good driver discounts. He maintained good driver discounts did not have anything to do with citations. They rewarded people for the lack of claims where there was liability. He commented in the case of hitting an elk, that would be a judgment call.



**SEN. SPRAGUE** stated if driving records were not used as a basis for good driver discounts, why would the company ask that the person who received a ticket be taken off of the policy to keep a good driver discount in place. **Mr. Asherbrenner** stated this involved two totally separate issues. He reported citations could change the rating factor. He said sometimes it was better to place youthful drivers on their own car so their rate would not impact the family vehicles which they did not drive.

**SEN. FORRESTER** stated it was his understanding that the bill simply corrected a flaw in the present law and allowed the insurers to give good driver discounts.

Vote: The motion **CARRIED UNANIMOUSLY** on oral vote.

**EXECUTIVE ACTION ON HB 488**

Motion: **SEN. BENEDICT** MOVED TO AMEND HB 488.

Discussion: **SEN. BENEDICT** commented the amendments, **EXHIBIT #17**, were requested by Larry Akey on behalf of the National Association of Independent Insurers. He conceptually made a further amendment to amendment 4. He would strike the number "10" and insert "30".

**Bart Campbell** commented that **REP. TUSS** agreed to the amendments.

**SEN. SPRAGUE** asked if the amendments would correct the problem of not being renewed because of a bad credit rating. He stated if the person was paying the premium, was this relevant?

**SEN. BENEDICT** stated that would not be covered by the amendments.

**SEN. MILLER** questioned amendment 2. He maintained before the amendment, the company needed to give the reason for declining. He asked to have amendment 2 segregated.

**SEN. BENEDICT** stated this entire section was credit history. He said any consumer could ask to see his credit report.

**SEN. MILLER** stated this dealt with the insured being denied coverage. He contended if they knew the reason they were denied, they could request the credit report.

Substitute Motion: **CHAIRMAN JOHN HERTEL** MOVED AMENDMENTS 1, 3, 4, AND 5.

Vote: The motion **CARRIED** on oral vote with **SEN. WILSON** voting "NO".

Motion: **SEN. BENEDICT** MOVED TO ADOPT AMENDMENT 2.

Discussion: SEN. BENEDICT stated all they were dealing with was credit history.

SEN. SPRAGUE asked if an individual could be cancelled for late payments.

SEN. KLAMPE stated the first communication from the company would be to state the insured was declined. When the insured then asked for the reason, they had to give the reason.

SEN. BENEDICT withdrew his motion.

Motion/Vote: SEN. BENEDICT MOVED AMENDMENT 4 BE CHANGED TO READ "30" DAYS INSTEAD OF "10". The motion CARRIED UNANIMOUSLY on oral vote.

{Tape: 2; Side: A}

SEN. KLAMPE asked for clarification of the change from 10 days to 30 days.

Substitute Motion: SEN. BENEDICT MOVED TO WITHDRAW THE PREVIOUSLY MADE AMENDMENT.

Mr. Campbell clarified that upon substantive request of the individual, mailed within ten days of receipt of the declination of nonrenewal, the insurer provided the individual with a copy of the credit report at issue.

Vote: The motion CARRIED UNANIMOUSLY on oral vote.

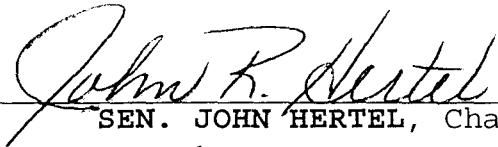
#### EXECUTIVE ACTION ON SB 356

Discussion: SEN. WILSON stated he talked to some of the people involved on the bill and they understood the realities involved. They were happy with the exposure.

MOTION/Vote: SEN. SPRAGUE MOVED TO TABLE SB 356. The motion CARRIED 5-4 on roll call vote (#1).

ADJOURNMENT

Adjournment: The meeting adjourned at 10:10 a.m.

  
SEN. JOHN HERTEL, Chairman

  
LYNETTE LAVIN, Secretary

JH/11

MONTANA SENATE  
1995 LEGISLATURE  
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE \_\_\_\_\_

3-17-95

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CS-09

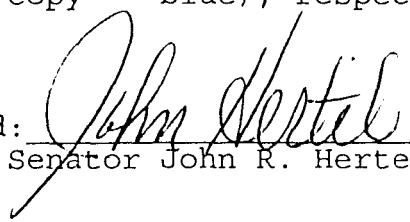
SENATE STANDING COMMITTEE REPORT


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March 17, 1995


MR. PRESIDENT:

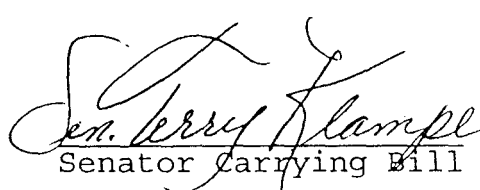
We, your committee on Business and Industry having had under consideration HB 387 (third reading copy -- blue), respectfully report that HB 387 be concurred in.

Signed:

  
Senator John R. Hertel, Chair

 Amd. Coord.

 Sec. of Senate

 Senator Carrying Bill

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MONTANA SENATE  
1995 LEGISLATURE  
BUSINESS AND INDUSTRY COMMITTEE  
ROLL CALL VOTE

DATE 3-17-75 BILL NO. SB 356 NUMBER 1

MOTION: TABLE SB 356

[illegible]

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CS-11

## TESTIMONY FOR SENATE BILL NO. 356

Presented by:

Rene Worley

324 Garfield

Wolf Point, MT 59201

March 17, 1995

"Congratulations, you have just won \$50,000.00 or a 1995 Cadillac". Does this sound familiar to you? It probably does not unless you, a friend or relative have been scammed by a fraudulent telemarketer.

According to the Federal Trade Commission, boiler room fraud is bilking billions of dollars from our Senior Citizens and people who live alone. Many Montana citizens are victims of this white collar crime, and because our state does not have a law against this fraud, we are being targeted by the out-of-state fraudulent companies.

I am testifying for SB 356 today because my mother, age 77, was scammed for over \$85,000.00 by forty seven (47) companies located in fourteen (14) different states for a total of eighty eight (88) transactions within two (2) years. I have attached a list of the companies that scammed Mom for your review--her name has been removed as we do not want it on another sucker list.

I have learned there are many other victims in Montana that have been bilked for several thousand dollars, their life savings, another person lost her home, and on and on. This money will never be invested or spent in Montana again. Who will pay their medical and/or nursing bills? Montana Medicaid??

You can encourage the victims to say "no", hang up the phone or get an unlisted number, but the caller has brained-washed him or her into believing his offer by using well-rehearsed sales pitches that require decisions immediately.

"In the hand of a con artist, a phone is an assault weapon" said Minnesota Attorney General Hubert H. Humphrey III in an "Associated Press" story.

[REDACTED]

Montana does not have a law against this fraud or allow the victims that have been bilked to file a complaint locally. Unfortunately, if no complaints or lawsuits are pursued against these people, they will continue to do business as usual in Montana.

Montana victims are required to file complaints against the fraudulent companies in the state where the company is doing business. This is very cumbersome, time consuming and frustrating. I filed complaints against the firms in the states where the checks were cashed on behalf of my mother. All of the complaints were accepted and appreciated by the state agencies as they understand the victims are embarrassed, elderly or reluctant to file on their own. Statistics show that as of July 1, 1994, 17.5% of Montana's population are 60 years and older, and these are the most vulnerable of our citizens. This process will be simplified and more speedy if this session passes SB 356.

As a result of the complaints filed, six companies that scammed my Mom and others are out of business, the owners and some employees are in prison, plus many law suits are pending.

Attorney Generals in Wisconsin, Nevada, Arizona, Florida, Ohio, Oklahoma, Oregon and Washington have filed lawsuits against several telemarketers doing business in their states. Many states have formed coalitions with the FBI, Consumer Affairs agencies and attorney generals to investigate and prosecute the telemarketers.

It is time Montana takes a stand against Telemarketing Fraud. Attorney General Mazurek has stated that the Consumers Affairs Office receives 10,000 complaints per year. Yes, Montana citizens are being scammed and the problem needs to be addressed. It will not go away unless legislation is passed to prosecute the violators.

In closing, it is imperative that SB 356 passes, if not Montana will be giving the fraudulent companies an open invitation to continue to operate in Montana. Remember, your mother, father, sister or brother could be a future victim to telemarketing scams.



## SENATE BUSINESS &amp; INDUSTRY

EXHIBIT NO. 2DATE 3-17-95BILL NO. SB 356*presented by Rene Worley*

SCAN-NAME-ADDRESSES-PH #-DATE-AMOUNT

COMPANY NAME	ADDRESS	CITY	ST	ZIP	TEL #	DATE	PAY'T AMT
A I Products	3712 N. Broadway Suite 339	Chicago	IL	60613	312-202-7066	10/15/93	\$199.00
American Clearing House	130 W. Hamton Suite B	Mesa	AZ	85210		03/24/93	\$599.00
American Clearing House	613 Dodds Ave	Chattanooga	TN	37404	800-289-7566	07/14/92	\$799.00
American Clearing House	130 W. Hamton Suite B	Mesa	AZ	85210	800-748-5475	04/28/93	\$2,085.00
American Clearing House	130 W. Hamton Suite B	Mesa	AZ	85210	800-748-5475	08/17/93	\$2,800.00
American Clearing House / AMC	130 W. Hamton Suite B	Mesa	AZ	85210	800-748-5475	06/02/93	\$2,800.00
American Clearing House / AMC	130 W. Hamton Suite B	Mesa	AZ	85210	800-748-5475	07/03/93	\$1,000.00
American Health Research	385 S. Lemon Ave. E 110	Walnut	CA	91789		11/02/92	\$498.00
Amel Inc.	7950 Daggs St. Suite 210	San Diego	CA	92111	800-748-5839	03/01/93	\$398.00
California Promotions	1616 E 17th St	Santa Ana	CA	92701	714-966-0883	05/15/92	\$715.00
Choice One, Inc	2221 Peachtree Rd N.E.	Atlanta	GA	30309	404-578-2914	12/02/92	\$549.00
Consumer Plus	161 Fashion Lane Suite 212	Tustin	CA	92680	714-573-0550	12/16/92	\$1,000.00
Consumer Plus	161 Fashion Lane	Tustin	CA	92680	714-573-0550	11/03/92	\$499.00
Consumer Plus	3638 University Ave Suite 248	Riverside	CA	92501		05/11/93	\$999.00
Consumer Plus	2175 Sampson Rd Suite 107	Corona	CA	91719		09/16/93	\$515.00
Consumer Plus	161 Fashion Lane Suite 212	Tustin	CA	92680		04/29/93	\$3,000.00
C. B. Express	12002 Warfield Office 100	San Antonio	TX	78216	210-344-4931	08/18/93	\$389.68
C. B. S.	15903 Lakewood Blvd Suite 103	Bellflower	CA	90706	714-937-4638	05/17/93	\$1,410.00
East West Marketing, Inc.	333 E Columbus Ave Suite 10	Springfield	MA	01105	800-647-4442	07/03/93	\$599.00
East West Marketing, Inc.	333 E Columbus Ave Suite 10	Springfield	MA	01105	800-647-4442	06/03/93	\$289.00
East West Marketing, Inc.	333 East Columbus Ave Suite 18	Springfield	MA	01105	800-647-4442	11/01/93	\$599.00
Emergency Service Volunteer	7914 W Dodge Rd	Omaha	NE	68114	402-271-8440	05/06/93	\$300.00
Emergency Service Volunteers	7914 West Dodge Road	Omaha	NE	68114		10/05/93	\$300.00
Family Savings Network / FSN	1215 A Hightower Trail	Atlanta	GA	30350	800-886-1300	07/16/93	\$580.00
G.P.C./Gerovicap			NV			12/21/93	\$199.00
Ideal Concepts	325 Robertson Blvd Suite B	Beverly Hills	CA	90211	800-298-3028	09/22/93	\$2,112.00
Ideal Concepts	325 Robertson Blvd Suite B	Beverly Hills	CA	90211	800-298-3028	12/03/93	\$3,000.00
Ideal Home Products, Inc / IHP	548 West Katella Ave	Orange	CA	92667	800-742-0392	06/24/92	\$588.00
Ideal Home Products, Inc / IHP	548 W Katella	Orange	CA	92667	800-742-0392	12/17/92	\$799.00
Ideal Home Products, Inc / IHP	548 W Katella	Orange	CA	92667	800-742-0392	11/19/92	\$699.00
Ideal Home Products, Inc / IHP	548 W Katella	Orange	CA	92667	800-742-0392	08/27/92	\$699.00
Ideal Home Products, Inc / IHP	548 W Katella	Orange	CA	92667	800-742-0392	10/04/92	\$989.00
Ideal Home Products, Inc / IHP	548 W Katella	Orange	CA	92667	800-742-0392	11/08/92	\$1,399.00
Ideal Home Products, Inc / IHP	548 W Katella	Orange	CA	92667	800-742-0392	01/20/93	\$459.00
International Exchange	620 S Grand Ave Suite 105	Santa Ana	CA	92705	714-883-8260	08/17/93	\$716.00
International Health	516 Chestnut St-Suite B	Chattanooga	TN	37402	800-333-8569	08/25/93	\$1,000.00
International Health, Inc	516 Chestnut Suite B	Chattanooga	TN	37402	800-333-8569	07/09/93	\$500.00
International Marketing	4645 South Procyon Suite A	Las Vegas	NV	89103	702-798-0704	08/19/92	\$1,998.00
International Marketing	4645 South Procyon Suite A	Las Vegas	NV	89103	702-795-0206	09/15/92	\$1,498.00
International Marketing	4645 South Procyon Suite A	Las Vegas	NV	89103	702-798-4091	05/19/93	\$1,500.00
International Marketing	4645 South Procyon Suite A	Las Vegas	NV	89103	702-795-0206	11/09/93	\$1,053.00
International Marketing	4645 South Procyon Suite A	Las Vegas	NV	89103	702-798-0704	06/30/92	\$488.00
International Marketing	4645 South Procyon Suite A	Las Vegas	NV	89103	702-795-0206	09/27/93	\$1,053.00
International Marketing	4645 South Procyon Suite A	Las Vegas	NV	89103	702-798-0704	10/19/92	\$1,000.00
I.T.B. Marketing						02/04/93	\$985.00
Laguna Marketing	1422 S. Field Rd-66	Lincoln Park	MI	48146	313-827-9189	02/15/93	\$299.00
Laguna Marketing	1422 S. Field Rd-66	Lincoln Park	MI	48146	313-827-9189	02/15/93	\$300.00
Lindenwald's Inc						06/15/93	\$81.95
Logik Enterprises	1140 Delaware Ave	Buffalo	NY	14209		05/03/93	\$800.00
National Clearing House	415 S McClintock Dr Suite 2	Tempe	AZ	85282	800-967-4816	07/06/93	\$2,200.00
National Clearing House	3702 E Weatherfield	Phoenix	AZ	85281	602-967-4004	05/19/93	\$1,200.00
National Environmental Products	NFP 2155 Chenoault Suite 512	Carrollton	TX	75006	800-238-5355	12/17/92	\$299.00

SCAM-NAME-ADDRESSES-PH#-DATE-AMOUNT

COMPANY NAME	ADDRESS	CITY	ST	ZIP	TEL #	DATE	PAY'T AMT
National Marketing	4530 South Sheridan Suite 220	Tulsa	OK	74145	<del>██████████</del>	07/03/93	\$700.00
Nationwide Marketing	6255 Ferris Square Suite D	San Diego	CA	92121	800-745-5174	02/01/93	\$1,495.00
Nationwide Marketing	6255 Ferris Square Suite D	San Diego	CA	92121	.	10/19/92	\$1,885.00
Nationwide Marketing	6255 Ferris Sq. Suite D.	San Diego	CA	92121	800-788-8082	08/27/92	\$500.00
North American Enterprises	4001 S Decatur Blvd 19	Las Vegas	NV	89103	800-333-3160	09/02/92	\$589.00
North American Enterprises	4001 S Decatur	Las Vegas	NV	89103	800-333-3160	04/29/93	\$1,388.00
North American Enterprises	4001 S Decatur Blvd-19	Las Vegas	NV	89103	800-333-3160	01/05/93	\$1,788.00
North American Enterprises, Inc.	40001 S Decatur Blvd	Las Vegas	NV	89103		11/02/92	\$990.00
North American Enterprises, Inc.	3330 Tropicano E Ave Suite E	Las Vegas	NV	89121	<del>██████████</del>	07/10/92	\$498.00
Northern Catalog	228 Gunbarrell Suite 111-157	Chattanooga	TN	37421	615-499-0208	09/17/93	\$1,500.00
Operation Life Community Development	1840 E Sahara Suite 118	Las Vegas	NV	89104	800-285-3003	08/18/93	\$2,198.22
Pacific Coast Awards	1608 N Main St Suite 110A	Santa Anna	CA	92701	714-752-7166	12/22/92	\$515.00
Pacific Coast Awards	1608 N Main St Suite 110A	Santa Anna	CA	92701	714-752-7166	01/21/93	\$700.00
Pacific Coast Awards	1608 N Main St Office 110A	Santa Anna	CA	92701	714-752-7166	09/16/92	\$515.00
Pacific Coast Awards	1608 N Main St Suite A	Santa Anna	CA	92701	714-752-7166	05/05/93	\$600.00
Promoters Clearing House	5414 B, Walnut Ave. Suite 141	Erville	CA	92714	800-339-9366	09/22/93	\$190.00
P.L.O.H.S.	4151 Bellline Rd	Dallas	TX	75224	214-349-1820	09/10/93	\$2,513.27
PDMI/Progressive Direct Marketing Inc	120 Copeland Rd Suite B5	Atlanta	GA	30342	404-252-2985	03/05/93	\$901.00
Quality Adv.	6555 N.W. 9th Ave Suite 410	Ft Lauderdale	FL	33309	800-741-2250	06/23/92	\$539.50
Quality Health Care	5900 Bld Eastgate Ctr Ste 2005	Chattanooga	TN	37411		01/07/93	\$689.00
Regency International, Inc.	1110 N. Old World Third Street	Milwaukee	WI	53203	800-366-6245	06/04/93	\$2,000.00
Regency International, Inc.	11130 Old World 3rd Suite 300	Milwaukee	WI	53203		06/04/93	\$1,800.00
Reliance Distributing Inc.	1776 Peachtree Rd NW Suite 306	Atlanta	GA	30309	800-964-8881	10/15/93	\$499.00
R.J.N. Marketing	1278 Glennsyer Ave Suite 144	Laguna Beach	CA	92651	800-634-6108	09/22/93	\$550.00
R.J.N. Marketing						07/15/93	\$400.00
S & N Advertising Inc.	1200 Blalock Suite 380A	Houston	TX	77055	800-659-8253	01/27/93	\$988.45
Conoco for Money Order						07/19/93	\$430.00
Service Net	6850 Alamo Downs Pkwy	San Antonio	TX	78238	512-523-1355	08/19/92	\$340.00
Star Group	1651 E Edinger Suite 104	Santa Ana	CA	92705	714-547-1946	05/14/93	\$715.00
S. R. B.	125 N. Syracuse Suite 39	Anaheim	CA	92801	714-491-2688	08/19/93	\$895.00
United Net	3319 Greenfield Rd Suite 305	Deerborn	MI	48120	313-927-8609	07/03/93	\$202.00
Universal Products	6023 Richmond Ave Suite 302	Houston	TX	77057	713-780-0370	11/02/92	\$798.15
U.S. Credit Redemption Agency	4001 S <del>Decatur</del> 351	Las Vegas	NV	89103	702-598-5010	08/16/93	\$1,200.00
U.S.S.A.	2301 Lake Tahoe Blvd. Suite 145	So Lake Tahoe	CA	96150	800-959-5870	07/19/93	\$495.00
World Wide Marketing	4828 Ronson Court	San Diego	CA	92111	800-748-6970	08/20/92	\$1,495.00
World Wide Marketing	4828 Ronson Court	San Diego	CA	92111	800-748-6970	05/15/92	\$588.00

\$85,575.22

COMPANY NAME	DATE	PAY'T AMT	MONTHLY TOTALS
California Promotions	05/15/92	\$715.00	
World Wide Marketing	05/15/92	\$688.00	\$1,403.00
Quality Adv.	06/23/92	\$639.50	
Ideal Home Products, Inc / IHP	06/24/92	\$588.00	
International Marketing	06/30/92	\$488.00	\$1,715.50
North American Enterprises, Inc.	07/10/92	\$498.00	
American Clearing House	07/14/92	\$799.00	\$1,297.00
International Marketing	08/19/92	\$1,998.00	
Service Net	08/19/92	\$340.00	
World Wide Marketing	08/20/92	\$1,495.00	
Ideal Home Products, Inc / IHP	08/27/92	\$699.00	
Nationwide Marketing	08/27/92	\$500.00	\$5,032.00
North American Enterprises	09/02/92	\$989.00	
International Marketing	09/15/92	\$1,498.00	
Pacific Coast Awards	09/16/92	\$515.00	\$3,002.00
Ideal Home Products, Inc / IHP	10/04/92	\$989.00	
Nationwide Marketing	10/19/92	\$1,885.00	
International Marketing	10/19/92	\$1,000.00	\$3,874.00
North American Enterprises, Inc.	11/02/92	\$990.00	
American Health Research	11/02/92	\$498.00	
Universal Products	11/02/92	\$798.15	
Consumer Plus	11/03/92	\$499.00	
Ideal Home Products, Inc / IHP	11/08/92	\$1,399.00	
Ideal Home Products, Inc / IHP	11/19/92	\$699.00	\$4,883.15
Choice One, Inc	12/02/92	\$549.00	
Consumer Plus	12/16/92	\$1,000.00	
National Environmental Products	12/17/92	\$299.00	
Ideal Home Products, Inc / IHP	12/17/92	\$799.00	
Pacific Coast Awards	12/22/92	\$515.00	\$3,162.00
North American Enterprises	01/05/93	\$1,788.00	
Quality Health Care	01/07/93	\$699.00	
Ideal Home Products, Inc / IHP	01/20/93	\$499.00	
Pacific Coast Awards	01/21/93	\$700.00	
S & N Advertising Inc.	01/27/93	\$988.45	\$4,674.45
Nationwide Marketing	02/01/93	\$1,495.00	
I.T.B. Marketing	02/04/93	\$985.00	
Laguna Marketing	02/15/93	\$299.00	
Laguna Marketing	02/15/93	\$300.00	\$3,079.00
Amtel Inc.	03/01/93	\$398.00	
PDM/Progressive Direct Marketing Inc	03/05/93	\$801.00	
American Clearing House	03/24/93	\$599.00	\$1,798.00
American Clearing House	04/28/93	\$2,085.00	
North American Enterprises	04/29/93	\$1,388.00	
Consumer Plus	04/29/93	\$3,000.00	\$5,473.00
Logik Enterprises	05/03/93	\$800.00	
Pacific Coast Awards	05/05/93	\$600.00	
Emergency Service Volunteer	05/06/93	\$300.00	
Consumer Plus	05/11/93	\$999.00	
Star Group	05/14/93	\$715.00	
C. B. S.	05/17/93	\$1,410.00	
National Clearing House	05/19/93	\$1,200.00	
International Marketing	05/19/93	\$1,500.00	\$7,524.00
American Clearing House / AMC	06/02/93	\$2,800.00	

SCAN-NAMES-DATE-MONTHLY TOTALS

COMPANY NAME	DATE	PAY'T AMT	MONTHLY TOTALS
East West Marketing, Inc.	06/03/93	\$289.00	
Regency International, Inc.	06/04/93	\$2,000.00	
Regency International, Inc.	06/04/93	\$1,800.00	
Lindenwold's Inc	06/15/93	\$81.95	\$6,970.95
American Clearing House / AMC	07/03/93	\$1,000.00	
National Marketing	07/03/93	\$700.00	
East West Marketing, Inc.	07/03/93	\$599.00	
United Net	07/03/93	\$202.00	
National Clearing House	07/06/93	\$2,200.00	
International Health, Inc	07/09/93	\$600.00	
R.J.N. Marketing	07/15/93	\$400.00	
Family Savings Network / FSN	07/16/93	\$580.00	
Conoco for Money Order	07/19/93	\$430.00	
U.S.S.A.	07/19/93	\$495.00	\$7,206.00
U.S. Credit Redemption Agency	08/16/93	\$1,200.00	
International Exchange	08/17/93	\$716.00	
American Clearing House	08/17/93	\$2,800.00	
Operation Life Community Development	08/18/93	\$2,198.22	
C. B. Express	08/18/93	\$389.68	
S. R. B.	08/19/93	\$895.00	
International Health	08/25/93	\$1,000.00	\$9,198.90
P.D.H.S.	09/10/93	\$2,613.27	
Consumer Plus	09/16/93	\$515.00	
Northern Catalog	09/17/93	\$1,500.00	
R.J.N. Marketing	09/22/93	\$550.00	
Ideal Concepts	09/22/93	\$2,112.00	
Promoters Clearing House	09/22/93	\$190.00	
International Marketing	09/27/93	\$1,053.00	\$8,533.27
Emergency Service Volunteers	10/05/93	\$300.00	
A I Products	10/15/93	\$199.00	
Reliance Distributing Inc.	10/15/93	\$499.00	\$998.00
East West Marketing, Inc.	11/01/93	\$599.00	
International Marketing	11/09/93	\$1,053.00	\$1,652.00
Ideal Concepts	12/03/93	\$3,000.00	
G.P.C./Gerovicap	12/21/93	\$199.00	\$3,199.00

\$85,675.22 \$85,675.22



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## MONTANA STATE LEGISLATIVE COMMITTEE

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(406) 587-0069

## ACTING VICE CHAIR

Lloyd Erickson  
4170 5th Avenue South  
Great Falls, MT 59405  
(406) 727-2951

## SECRETARY

Vacant

AARP TESTIMONY  
Senate Bill 356  
March 17, 1995

Mr. Chairman & Members of the Committee,

For the record my name is Bill Olson. I represent the 113,000 members of the American Association of Retired Persons in Montana. AARP in Montana is a volunteercommunity service organization consisting of several programs of service to Seniors. One of those is to act as a spokesperson for seniors.

Telemarketing fraud is a high AARP priority because it is so prevalent, involves very large amounts of money, and it targets Seniors. This issue is one of the most talked about issues by our Seniors. It is politically attractive, and the challenge is to make an effective effort to combat telemarketing fraud.

AARP in Montana has a three pronged attack on telemarketing fraud.

First, AARP in cooperation with state officials has distributed brochures and mounted an education campaign.

Second, AARP is forming a network designed to alert the public when a new scam hits the state.

Third, AARP worked hard on this legislation.

This bill is a win-win bill.

It's a step forward in consumer protection. Telemarketing fraud is a huge industry, and it tends to take Seniors to the cleaners more often than others.

It's also a pro-business, buy locally bill. Telemarketing fraud drains huge amounts of money from Montana that can be better spent here.

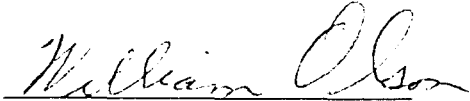
In this respect, I want to direct your attention to the exemptions in the bill. The downtown merchant you deal with is exempt by virtue of being known in the community and having done business with you (page 2, line 30).

Senate Bill 356  
page 2

I HAVE also been informed that a representative of the Direct Marketing Association will offer a friendly amendment exempting legitimate businesses that give the buyer the right to review the goods or services and to return or cancel in seven days and get a full refund.

With such exemptions in mind and the amendments proposed by the Department of Commerce, I believe this bill is worthy of your favorable consideration.

Thank you.

A handwritten signature in cursive script, reading "William Olson", written in dark ink.

William Olson  
AARP LEGISLATIVE Committee

# MONTANA LEGISLATIVE ALERT

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3-17-95

BILL NO. SB 356

AMERICAN ASSOCIATION AARP OF RETIRED PERSONS

(presented by:  
*Bill Olson*)

VOL. 1, NO. 1

MARCH 6, 1995

## Montana State Legislative Committee 1995 Position Papers

### TELEMARKETING FRAUD

**POSITION:** Curbing telemarketing fraud and scams and providing restitution is a legislative priority of the Montana AARP State Legislative Committee and the Capital City Task Force.

**PROBLEM:** The National Association of Attorneys General (NAAG) reports that consumers nationwide lose \$10 to \$40 billion annually to fraudulent telemarketers and sweepstakes promoters. An April 1994 NAAG survey found complaints about contests and sweepstakes to be the second most common complaint by consumers. An FBI probe revealed that half of the telemarketers used telephones to contact individuals, 25% used postcards asking victims to place a call to win a prize, and 12% used advertisements. "Sucker lists" sell for 10 to 15 times the normal price for targeted telephone lists. Telemarketing drains money from the state that otherwise would be spent with local merchants.

**SOLUTION:** Empower Montana authorities to bring civil actions against telemarketers on behalf of Montana residents to obtain injunctions; enforce compliance with regulations; obtain damages, restitution or other compensation; or obtain other relief specified by the court.

Establish a "no solicitation calls" list prohibiting telemarketers from calling.

Require licensing of telemarketing companies.

Provide penalties for unauthorized use of credit card charges.

## AARP STATE LEGISLATIVE COMMITTEE

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*Great Falls Tribune*

# Rising number of 'rip off' scams bothers officials

By C. ZAWADI MORRIS  
of the Tribune

WASHINGTON — "Congratulations, Great Falls resident! You are the lucky winner of a Caribbean cruise. Just fill out this survey and purchase two of our ..."

Sound familiar? According to Joan King, chairman of the Consumer Committee of the American Association of Retired Persons, three-quarters of all consumers have received similar "rip-off" notices in the past six months. And, she said, older people are often the target of these sweepstake scams.

"It's a chronic problem," said Mark Morse, Postal Inspector for the Montana bureau in Great Falls. He figures his office receives an average of 10 complaint letters a day and 40 calls a month.

"Thirty to 40 percent of my time I spend dealing with mail fraud complaints, most of them from the elderly," Morse, said. "But because people here in Montana are more or less self-reliant, if they suspect mail fraud, they immediately call and report it in."

Morse said sweepstakes promoters, particularly those who make telephone pitches, target older adults because they are friendlier and more open to strangers.

Post Office spokesman James D. Bordenet agreed.

Widows or widowers simply appreciate being able to talk to someone. They really welcome the phone call, the contact," he said. "They look forward to the mail coming in and being told over and over that they are winning."

Bordenet added that seniors in Montana should be reconnected in the way to important issues that affect them by joining support groups such as the area counsels on aging, or the AARP.

Patricia Donahoe, customer rela-



Tribune photo by Wayne Arnst

Mark Morse, postal inspector for Montana, shows some of the many mail-order scams reported to his office.

tions coordinator for the post office in Helena, said her office receives two to three calls a day complaining about mail-order fraud.

"The majority of the calls are by adult children who say their elderly parents are receiving a lot of solicitations through the mail," Donahoe said. "They're concerned that their parents are spending so much money on these mail promotions and want to know what our office can do to help."

The National Fraud Information Center estimated that older people make about 60 percent of the calls to their toll-free complaint line, and it's usually about a sweepstake, King said. They also are more likely to be duped by health-related promotions such as vitamins, skin-care products

See SCAMS, 2B

FROM IB  
and medical alert systems, she added.

"Postal scams have always been around," said Mike Varnum, chief of the Economic Crime Unit at the FBI, "but we are now starting to crack down on these fraudulent organizations."

In 1989, the FBI headed up "Operation Disconnect" — which according to USA Today, was the biggest crackdown ever on telephone sale fraud — raiding 50 businesses in 12 states and Washington, D.C. About 550 people were suspected of being involved in 123 illegal telemarketing operations. The three-year investigation by 800 agents eventually netted more than 130 arrests.

According to Jack Norris, head of the Consumer Litigation Section at the Florida Attorney General's Of-

fice, many sweepstake promoters compile a "Sucker List" or "Relo List" which contains the names of repeated victims of other postal and mail-order scams.

"If we can get a hold of these lists we call the people and inform them that they are, in fact, targeted victims of these scammers," Norris said.

King said that although federal and state laws exist to protect consumers from fraud, including the Telephone Consumer Act, the Fair Credit Billing Act and statutes prohibiting unfair and deceptive practices, consumers should be better informed about how to identify scams and what to do if they believe they have been taken advantage of.

"Just be careful," Morse warned. "If it sounds too good to be true, probably is."

# Postal inspectors warn consumers not to take bait

For the Tribune

The U.S. Postal Inspection Service says: Don't take the bait.

According to the National Consumer League, "guaranteed prize" solicitations made by telephone and through the mail continue to be the hottest telemarketing scam in the United States — 92 percent of Americans have been pitched, and 29 percent have taken the bait.

James D. Bordenet, public information officer for the U.S. Postal Inspection Service, listed 10 ways consumers can protect themselves from phone or mail fraud.

- Don't buy something merely because you'll get a "free gift."
- Get all information in writing before you agree to buy.

- Be extremely cautious about investing with an unknown caller who insists you must make up your mind immediately.

- If the investment is a security check with state officials to see if it is properly registered. If large amounts of money are involved, check with your legal or financial adviser.

- Don't send money by messenger or overnight mail. If you send money rather than a credit card for the transaction, you may lose your right to dispute fraudulent charges.

- Make sure you know the minute charge for any 900 number call you make.

- Hang up instead of being pressured to buy.

## What to watch for

Children can play a key role in keeping callers from taking advantage of elderly parents or relatives:

- Notice whether the phone rings all of the time.
- Examine their check book to see where their money is going.
- Look for cheap gadgets such as pens, buttons and key chains lying around the house.

If you think you or someone else is the victim of phone or mail fraud, save all documentation of the transaction including canceled checks, telephone bills, credit card statements and mailing envelopes.

Write down the important statements made by each individual who spoke with you, and contact your state and local consumer protection agencies, chamber of commerce, better business bureau, federal trade commission, state attorney general or Federal Bureau of Investigation.



March 17, 1995

Testimony on Senate Bill 356

Mr. Chairman, members of the committee. For the record my name is Mike Voeller. I represent Lee Newspapers of Montana and Montana Magazine.

We neither oppose nor support Senate Bill 356. However, we are concerned about fraud and deception in the marketplace and in that spirit we offer amendments concerning the exception the bill grants to non-profit organizations.

First, a few words of explanation. Some years ago a Salt Lake City TV station aired a special report on fund raising activities of non-profit organizations. The report centered on the practice of many non-profits, particularly law enforcement associations, of hiring firms to solicit money and the large amount the solicitors received, leaving the non-profits 25 to 30 cents on the dollar, sometimes more, sometimes less.

Three years ago following a six-month investigation, the Quad-City Times of Davenport, Iowa published a series of articles it labeled "Telescam." The series focused primarily on non-profit fund-raising activities and it was a real eye opener.

The series revealed that fraternal organizations of police officers were among the biggest users of professional fund-raisers, and some of them didn't hesitate to hire firms operating outside the law. Millions of dollars donated to Iowa and Illinois police associations have wound up instead with firms banned from doing business in other states.

The Clinton, Iowa police association received 13 cents of each dollar raised during one fund raiser. Other examples of amounts received by non-profits who used fund-raisers: Illinois Police Association, 15 cents on the dollar; Scott County Humane Society, 40 cents on the dollar; Multiple Sclerosis Foundation, 30 cents on the dollar; Iowa Head Injury Association, 14 cents on the dollar; Iowa Department of Am-Vets, 15 cents on the dollar; American Cultural Traditions, 0 cents (campaign costs exceeded revenue) to 20 cents. And the list goes on.

The attitude that prompts profiteering at the expense of innocent donors is best summed up by an officer with the Moline, Ill., Police Association who said officers would rather have a paid fund-raiser keep most of their money than volunteer their own time. "We don't want to be bothered with this," he said. "The professionals have the contacts."

Montana is no exception to this widespread practice. Ever since I saw the Salt Lake City report I have made it a practice to ask solicitors for non-profit fund-raisers how much they are taking off the top. I am then referred to a supervisor and invariably told that they are getting 65, 70 or more percent of what they raise.

The most recent example occurred a year or so ago when I received a phone solicitation to contribute to a Big Brothers and Big Sisters fund-raiser. When I made my usual inquiry I was told the solicitors were receiving 70 percent of the proceeds.

Well-meaning people are being deceived into thinking that their entire contribution is going to the non-profit organization. These same well-meaning people are defrauding the federal and state governments when they claim their entire gift as a tax deduction since only the amount that goes to the non-profit group can be claimed as a deduction. Furthermore, donors are not aware that not all non-profit or tax-exempt organizations are charities, and tax-exempt status does not necessarily mean contributions are tax-deductible.

If you are truly concerned with curbing fraud and deception I urge you to adopt the following amendments to Senate Bill 356.

Page 3, line 9

After "by"

Strike "*or on behalf of*"

Page 4, line 21

After "*section*"

Strike "."

Insert ", except:

*(a) a person or entity making a solicitation on behalf of a nonprofit organization must disclose the fee or percentage they receive for either each successful solicitation or the total amount, as well as the amount that the represented nonprofit organization receives."*

SB 356

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 7

DATE 3-17-95

BILL NO. SB 356

*(presented by Mike Muller)*

Page 3, Line 9.

After "by"

Strike "or on behalf of"

Page 4, Line 21

After "section"

Strike "."

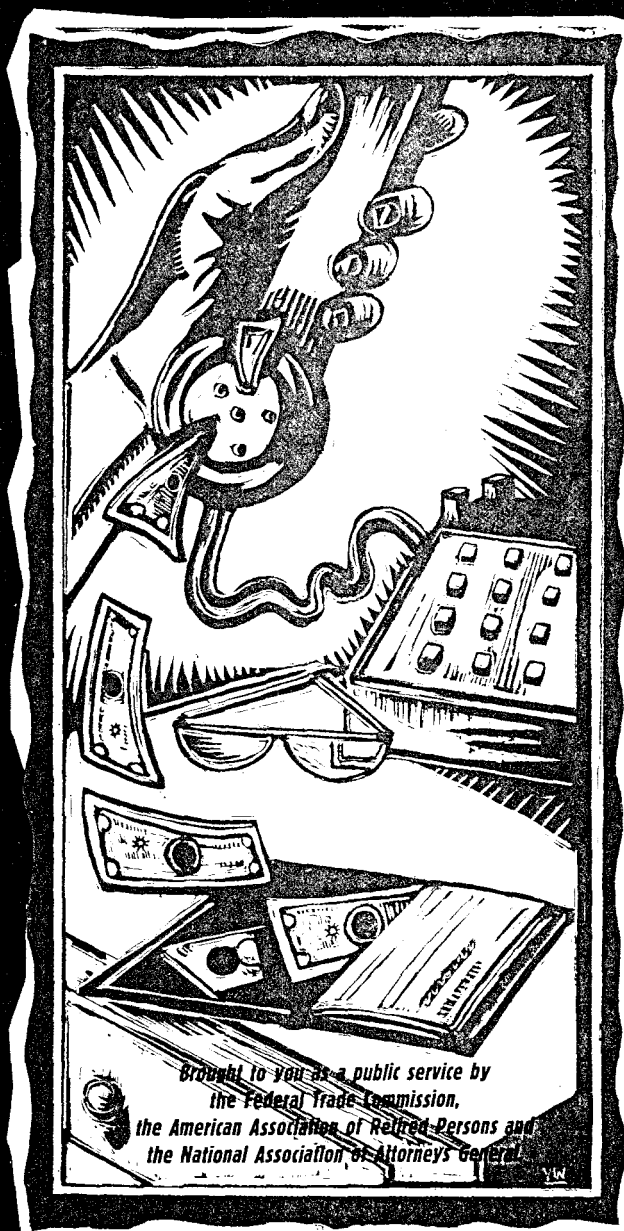
Insert ", except:

*(a) a person or entity making a solicitation on behalf of a nonprofit organization must disclose the fee or percentage they receive for either each successful solicitation or the total amount, as well as the amount that the represented nonprofit organization receives."*

EXHIBIT NO. 7

# TELEPHONE SCAMS

## AND OLDER CONSUMERS



The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

## Bill Amendments to SB356

## Telemarketing

March 15, 1995

Proposed by: Montana Department of Commerce  
Point of Contact: Annie M. Bartos, Chief Legal Counsel, 444-3553

1. Page 2, Line 2.

Following: "seller,"

Strike "except: (a) an attempted sale in which the buyer personally knows the identity of the seller, knows the name of the business, firm, or organization ~~he~~ that the seller represents, has an existing business relationship with the seller, and knows the identity or kinds of goods or services offered for sale; (b) an attempted sale in which the buyer has initiated the contact with the seller; (c) an attempted sale of a newspaper subscription in which the seller is a minor engaged in both the delivery and the sale of the newspaper; or (d) an attempted sale of an insurance policy."

2. Page 2, Line 13.

Following: "consideration"

Insert: "in excess of \$25.00"

3. Page 3, Line 23.

Following: "and"

Strike: "provide the updated list to telephone solicitor upon request."

Insert: "it shall be the obligation of any telephone solicitor who desires to call a consumer in this state to request in writing from the Department of Commerce the no solicitation calls list. No telephone solicitation shall occur until the list is obtained from the Department. The no solicitation calls list shall be updated quarterly by the department."

4. Page 7, Line 10.

Following: "Limitation of action"

Insert: "and jurisdiction".

5. Page 7, Line 14.

Insert: "(3) The district court of the first judicial district of the state has exclusive jurisdiction for all causes of action arising under this chapter. Any individual or entity who engages in personal solicitation and/or telephone solicitation in Montana shall be subject to the jurisdiction of the State."

# TELEMARKETING FRAUD

## HOW TO SPOT IT HOW TO AVOID IT

Presented as a public service by:  
Federal Trade Commission  
National Association of Attorneys General

The original of this document is stored at  
the Historical Society at 225 North Roberts  
Street, Helena, MT 59620-1201. The phone  
number is 444-2694.

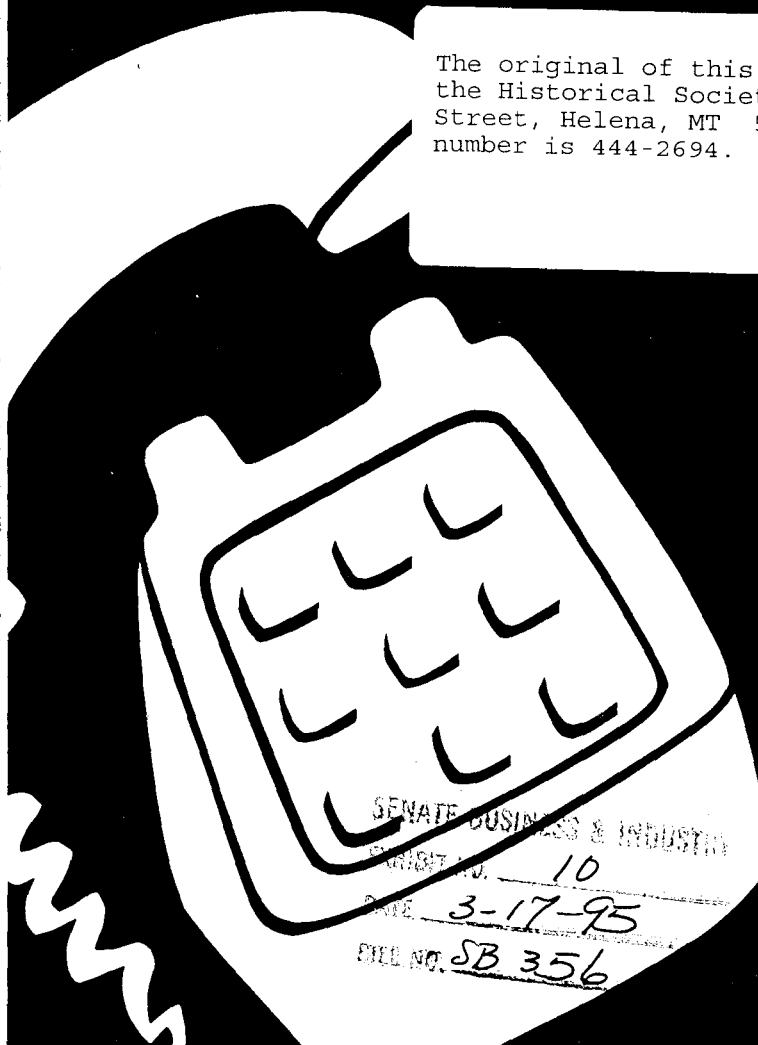
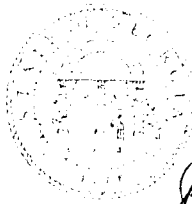


EXHIBIT NO. 10-ADATE 3-17-95BILL NO. SB 356

578-3080

*(presented by Verne Klingensmith)*

OFFICE OF THE DISTRICT ATTORNEY  
COBB JUDICIAL CIRCUIT  
STATE OF GEORGIA

Administration Building  
10 East Park Square  
Marietta, GA 30090-9602  
(404) 429-3080

E. Arletta Martin  
Officer Administrator

Lynn E. Martin  
Chief Investigator

Jack E. Mallard  
Chief Assistant District Attorney

William R. Pardue  
Supervisor, Indictment/Intake Section

Bobbie C. Chilton  
Paralegal/Administrative Assistant

Pamela E. West  
Director, Victim/Witness Unit

THOMAS J. CHARRON  
DISTRICT ATTORNEY

December 14, 1990

Ms. Virginia Nufer  
477 Calle Cadiz  
Laguna Hills, CA 92653

Dear Ms. Nufer:

I am currently handling an investigation on Westbound Distributing involving an alleged scam. During the course of my investigation, I subpoenaed the bank records for the company including all checks that had been deposited into their account. Included in the documentation we received on these bank records were copies of your checks written to Westbound Distributors on 6/6/90 for \$598, 6/27/90 for \$1,500, 6/27/90 for \$1,000, 7/10/90 for \$1,400, 7/30/90 for \$1,598, 8/15/90 for \$2,000 and 8/22/90 for \$1,500. Therefore, you may be a victim in this case.

The purpose of this letter is to inform you of the investigation and to find out the reason you wrote the check to Westbound Distributors and if you received any benefit from this check. If you did not receive any benefits or if you were mislead or deceived in any way, I need to know if you wish to file a complaint with this office.

Please complete the enclosed questionnaire and return to me along with any correspondence you received from Westbound Distributors. The form must be filled out and returned to this office immediately so that we may complete the investigation and proceed with any prosecution.

If you have any questions, you may call me collect at (404) ~~429-3261~~ between 8:30 a.m. and 5:00 p.m. Monday through Friday.

578-3061

Sincerely,

Terrie L. Austin  
Criminal Investigator

TLA/jc  
Attachment

COMPLETE NAME \_\_\_\_\_

DATE OF BIRTH \_\_\_\_\_ SOCIAL SECURITY # \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
TELEPHONE NO. \_\_\_\_\_

## PLEASE ANSWER THE FOLLOWING QUESTIONS:

1. WHEN WERE YOU FIRST CONTACTED BY WESTBOUND DISTRIBUTORS (DATE AND TIME)? \_\_\_\_\_
2. HOW WERE YOU CONTACTED? \_\_\_\_\_
3. HOW MANY TIMES WERE YOU CONTACTED? \_\_\_\_\_
4. NAME OF PERSON(S) WHO CONTACTED YOU AND WHAT THAT PERSON TOLD YOU IN THE PHONE CONVERSATION:

DATE \_\_\_\_\_ PERSON \_\_\_\_\_

CONVERSATION \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_

DATE \_\_\_\_\_ PERSON \_\_\_\_\_

CONVERSATION \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_



DATE \_\_\_\_\_ PERSON \_\_\_\_\_

CONVERSATION \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. WERE YOU TOLD HOW YOU COULD CONTACT THEM? ☐ YES - ☐ NO  
IF YES, PHONE NUMBER(S) \_\_\_\_\_

ADDRESS(ES) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

6. WERE YOU TOLD WHAT TYPE OF BUSINESS WESTBOUND DISTRIBUTORS  
WAS? ☐ YES - ☐ NO. IF YES, WHAT WERE YOU TOLD? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

7. AT ANY TIME IN ANY OF THE CONVERSATIONS, WERE YOU TOLD ANYTHING  
ABOUT WESTBOUND DISTRIBUTORS SELLING BUMPER STICKERS? ☐ YES -  
☐ NO. IF YES, WHAT WERE YOU TOLD? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

8. DID YOU RECEIVE ANY BROCHURES OR CONTRACTS FROM WESTBOUND  
DISTRIBUTORS? ☐ YES - ☐ NO. IF YES, PLEASE FORWARD A  
COPY WITH THIS QUESTIONNAIRE.

9. DID YOU RECEIVE ANY WRITTEN CORRESPONDENCE FROM WESTBOUND  
DISTRIBUTORS? ☐ YES - ☐ NO. IF YES, PLEASE FORWARD A COPY  
WITH THIS QUESTIONNAIRE.

10. WERE YOU ASKED TO SEND ANY MONEY? ☐ YES - ☐ NO. IF YES,  
HOW MUCH WERE YOU ASKED TO SEND? \_\_\_\_\_

11. WHAT WERE YOU TOLD THE MONEY WAS FOR? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

EXHIBIT 10-B

DATE 3-17-96

71 SB 356

12. IN WHAT FORM DID YOU SEND MONEY? ☐ CASH; ☐ MONEY ORDER;  
☐ CHECK; ☐ WIRE TRANSFER. (PLEASE ENCLOSE THE ORIGINAL  
OR A LEGIBLE COPY OF THE FRONT AND BACK OF YOUR CHECK, MONEY  
ORDER, ETC.
13. WHAT ADDRESS DID YOU SEND THE MONEY TO? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
14. HOW DID YOU SEND THE MONEY? ☐ U.S. POSTAL SERVICE; ☐ EMERY;  
☐ FEDERAL EXPRESS; ☐ OTHER \_\_\_\_\_
15. DID YOU HAVE TO PAY FOR MAILING, PICKUP OR DELIVERY SERVICE?  
☐ YES - ☐ NO. IF YES HOW MUCH? \_\_\_\_\_
16. WHAT WERE YOU PROMISED FOR THE MONEY SENT BY YOU? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
17. DID YOU RECEIVE ANYTHING FROM WESTBOUND DISTRIBUTORS FOR THE  
MONE THAT YOU SENT? ☐ YES - ☐ NO. IF YES, WHAT DID YOU  
RECEIVE? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
18. HOW DID WESTBOUND DISTRIBUTORS RECEIVE OR OBTAIN YOUR NAME AND  
PHONE NUMBER? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
19. ARE YOU A MEMBER OF ANY SENIOR CITIZENS GROUP SUCH AS AARP?  
☐ YES - ☐ NO. IF YES, WHAT GROUP(S)? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
20. DO YOU KNOW ANYONE ELSE WHO SENT MONEY TO WESTBOUND DISTRIBUTORS?  
☐ YES - ☐ NO. IF YES, PLEASE GIVE THEIR NAME, ADDRESS AND  
TELEPHONE NUMBER.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

[ ] YES - [ ] NO.

ANY ADDITIONAL COMMENTS YOU HAVE \_\_\_\_\_

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

SB 356 - Regulate Telephone Solicitation  
Senate Business - 3-17-95  
Amendments offered by  
Barbara Ranf, U S WEST

1. Page 1, Line 30

Following "services"

Insert "which are primarily for personal, family, or household purposes,"

2. Page 3, Line 10

Following "seller"

Insert "or its affiliate"

3. Page 4, Line 24

Insert "30-14-505(a)

YOU MAY CANCEL THIS SALE WITHIN THREE BUSINESS DAYS.

If you decide within 3 days that you want to cancel the sale, tear off and mail the bottom of this card, or send a similar notice to our address or facsimile number listed in this notice. To cancel, the card or notice must be mailed sent BY CERTIFIED MAIL, OR FAX within 3 days after you sign receive this written confirmation of the contract. (date)"

4. Page 4, Line 27

Following "written"

Insert ", telephone, electronic, facsimile, or other"

5. Page 5, Line 16

Following "buyer"

Insert ", or in the case of services, the buyer has used the services prior to sending the seller the buyer's notice of cancellation"

6. Page 7, Line 13

Following "part."

Delete "New Section. Section 14." Lines 15 - 22 in its entirety.

# KNOW YOUR RIGHTS

EXHIBIT NO. 12  
DATE 3-17-95  
BIL. NO. SB 351

*Presented by  
Barbara Ranz*

# Consumer Tips

Continued from previous page

## We May Listen To Calls Between You And Our Employees

It's one way our managers can make sure you're receiving prompt and courteous service and accurate information. These calls are randomly selected and are not recorded. They include calls to our repair bureaus, customer service numbers, directory assistance and "0" operators.

## IF YOU RECEIVE OBSCENE OR HARASSING PHONE CALLS:

Call your U S WEST Communications service representative for a free brochure on how to handle these types of phone calls.

It's against the law to make obscene, threatening or anonymous phone calls. Telephone harassment is a crime. Penalties include imprisonment and/or a fine.

## IF YOU RECEIVE UNWANTED SALES AND SURVEY CALLS:

- Be skeptical of offers that sound too good to be true; they usually are.
- Resist high pressure sales tactics.
- Companies should be willing to provide their name, address, phone number and references. If not, be skeptical. Verify this information before making a purchase.
- Report companies using questionable sales practices to the Better Business Bureau or your state attorney general's office.
- Disconnect computer-generated calls by hanging up your telephone for 12 to 15 seconds.
- Contact the Direct Marketing Association to have your name removed from telephone solicitation lists. Write to Direct Marketing Association, Inc., 6 East 43rd Street, New York, NY 10017.
- Call the number at the top of the previous page to have your name removed—at no charge—from lists that our company leases to other firms. Customers with unlisted or unpublished numbers are never included on the lists we lease.
- Do not give your telephone credit card number to anyone who calls and asks for the number.

## TELEPHONE SAFETY TIPS

Your telephone is one of the safest appliances in your home or office. But there are times when you should be careful using it:

- Don't use the telephone in the bathtub, shower or swimming pool. Dropping the phone into water could cause a shock.
- Avoid using the telephone during electrical storms. U S WEST Communications uses protective measures to limit electrical surges from entering your home or office, but absolute protection from lightning is impossible.
- If you suspect a gas leak, use a telephone away from the suspected area to report it. The telephone's electrical components could create a tiny spark when you dial. Although unlikely, that spark could ignite heavy concentrations of gas.

## EMERGENCY CALLS HAVE PRIORITY ON PARTY LINES

State law says you **MUST** immediately yield the use of a party line to anyone saying the line is needed for an emergency call. An emergency is any situation in which property or human safety is in jeopardy and emergency service personnel must be summoned.

It's against the law to gain control of a party line by falsely stating that an emergency call needs to be made. Penalties for violating party line laws include fines and/or imprisonment.

## YOU CAN'T USE AN ANSWERING MACHINE ON A PARTY LINE

That's because answering devices cannot give up a line in an emergency. They also disrupt service for everyone on the party line.

# Community Services

COMMUNITY BUSINESS &amp; INDUSTRY

EXHIBIT NO. 13

DATE 3-17-95

FBI NO

DATE 3-17-95

BILL NO. 08 356

Presented by  
Barbara Hanf

## AGING

- Elderly Legal Services  
(Voice/TTY) ..... 1 800 332-2272
- Long Term Care Ombudsman  
(Voice/TTY) ..... 1 800 332-2272
- MT Health Education  
Center (AHEC) ..... 994-6001
- Rocky Mountain Development Council  
Area IV Agency on Aging .. 442-1552
- Information & Referral ..... 442-1552
- State Information & Referral  
(Voice/TTY) ..... 1 800 332-2272
- State Office on Aging  
(Voice/TTY) ..... 1 800 332-2272

## ALCOHOL ABUSE

(See "Substance Abuse")

## BUSINESS AND CONSUMERS BUREAU OF MONTANA, INC.

..... 1 800 585-8373

## CHILD ABUSE

Child Abuse Helpline .... 1 800 332-6100

## CHILD CARE & DAY CARE

- Children's Center ..... 443-6318
  - Child Care Partnerships  
Business Childcare  
Assistance ..... 443-4608
  - Child Care Referral ..... 443-4608
  - Child Care Food Program ... 443-4608
  - Daycare Provider  
Training ..... 443-4608
  - Florence Crittenton ..... 442-6950
  - Rocky Mountain Development Council  
Child Care Feeding Program  
..... 442-1552
  - Head Start ..... 442-7930
  - Montessori School ..... 442-9836
  - Teddy Bear Day Care Centers  
Helena ..... 442-5547
  - Montana City ..... 449-5599
  - YMCA ..... 442-9622
- Also see Yellow Pages listings.

## CITIZENS ADVOCATE

- Long Term Ombudsman ..... 444-4676
- State of Montana ..... 444-3468
- Outside of Helena  
(Voice/TTY) ..... 1 800 332-2272

## COMMUNITY SERVICE ORGANIZATIONS

- American Red Cross ..... 442-0260
- Community Action Agency  
Rocky Mountain Development  
Council ..... 442-1552
- Food Stamp Outreach .... 442-1552  
or 444-3111
- Food Share, Helena ..... 443-3663
- Friendship Center, The ..... 442-6800
- God's Love Shelter ..... 442-7000
- Good Samaritan, The ..... 442-0780
- Hospice of St. Peter's ..... 444-2367
- Montana Low Income  
Coalition ..... 449-8801
- Salvation Army ..... 442-4032

## CONSUMER PROTECTION AGENCIES

- Business and Consumers Bureau  
of Montana, Inc. .... 1 800 585-8373
- Food and Consumer  
Safety ..... 444-2408
- Long Term Care  
Ombudsman ..... 444-4676
- Outside Helena ..... 1 800 332-2272
- Office of Consumer Affairs .... 444-4312

## CRIME VICTIMS UNIT

Statewide ..... 444-3653

## CRIMESTOPPERS

..... 443-2000

## CRISIS LINE

(24 Hours) ..... 443-5353

## DISASTER AND EMERGENCY SERVICES

Helena ..... 447-8285

## DOG BITE/STRAY ANIMALS

County 24 Hours ..... 447-8293

## DOMESTIC VIOLENCE

Friendship Center of Helena ... 442-6800

## DRIVERS EXAMINATION

Lundy Shopping Center ..... 443-3680

## DRUG ABUSE

(See "Substance Abuse")

## EMERGENCY NUMBERS

- Child Abuse Helpline  
..... 1 800 332-6100

## EMERGENCY NUMBERS (contd)

- FBI  
Helena ..... 443-3617
- (if no answer)  
8 a.m.-5 p.m. .... 1 + 248-8487
- 5 p.m.-8 a.m.  
& Weekends ..... 1 801 579-1400
- All other exchanges, call Directory  
Assistance.
- Highway Patrol  
Helena ..... 444-7000
- If calling outside of  
Helena ..... 1 800 525-5555
- Lewis & Clark County Search  
& Rescue ..... 442-7883
- National Runaway  
Switchboard ..... 1 800 621-4000
- U.S. Secret Service  
(Call collect, Great Falls)  
..... 0 + 452-8515
- U.S. Treasury Department  
Bureau of Alcohol, Tobacco  
& Firearms  
(Call collect, Helena) .... 0 + 449-5338
- Wild land fires (forest & range)  
Helena ..... 444-4242

## EMPLOYMENT

- Rocky Mountain Development  
Council ..... 443-0800
- Food Stamp Job Search
- Older Worker Program
- Youth Employment Program

## FEDERAL BUREAU OF INVESTIGATION

- Helena ..... 443-3617
- (If No Answer)  
8 a.m.-5 p.m. .... 1 + 248-8487
- 5 p.m.-8 a.m.  
& Weekends ..... 1 801 579-1400

## HEALTH CARE

- AIDS Hotline  
Hearing Impaired ..... 1 800 243-7889
- Montana ..... 1 800 233-6668
- National ..... 1 800 342-2437
- Alzheimer's Disease ..... 442-1552  
or 444-3111
- American Cancer Society ..... 442-7094
- Outside of Helena .... 1 800 227-2345

*The voice of retailing  
in Montana!*



SENATE BUSINESS & INDUSTRY  
EXHIBIT NO. 14  
DATE 3-17-95  
BILL NO. SB 356

318 N. Last Chance Gulch ♦ Suite 2A ♦ Helena, MT 59601 ♦ 406-442-3388 ♦ Fax (406) 442-2633 ♦ 1-800-388-0236

Mr. Chairman, members of the committee, for the record my name is Brad Griffin representing the Montana Retail Association.

The Retail Association opposes this legislation because it is a burdensome attempt to shield people who could easily stop telephone solicitations using existing methods.

We recognize that fraud does take place with certain boiler room operations and certainly, we do not stand here in defense of those operations. We also recognize that many people, myself included, do not like solicitation by phone. This bill is a bad attempt to address these two problems.

It is burdensome to Montana businesses and it will not stop interstate calls from being made to Montana's consumers.

Currently, consumers have several protective measures available.

1. The consumer can always say "no" to every solicitor and tell the solicitor to remove his/her name from the calling list.

2. The consumer can contact the Direct Selling Association and have his/her name removed from a list of over 5,000 companies.

3. The consumer can, even after charging and receiving the product, return it within 3 days.

4. If the consumer decides that they don't like the product, they can refuse payment on their credit card as a disputed amount.

5. The consumer can, as a last resort, get an unlisted number.

6. The FTC is currently in its rulemaking process crafting rules in an effort to halt fraudulent use of telemarketing. If Montana passes this bill, it would supercede the FTC's rules.

7. Lastly, when a consumer pays \$10 to get on a "no call" list, that is exactly what he expects to get is no calls. Exempting one of the most annoying solicitors, non profit groups, would violate that expectation.

For these reasons, I urge you to table this bill.

DATE 3-17-95BILL NO. SB 356 LC0223.01

(Presented by Ross Cannon)

54th Legislature

SENATE BILL NO. 356

INTRODUCED BY

William Grobstein Li. Sen. Nelson Lynch

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING PERSONAL SOLICITATION SALES BY TELEPHONE AND FACSIMILE TRANSMISSION; ESTABLISHING A NO SOLICITATION CALLS LIST; REQUIRING THAT TELEPHONE SOLICITORS DISCLOSE INFORMATION TO BUYERS; PROVIDING FOR ENFORCEMENT AUTHORITY, PROCEDURES, AND PENALTIES FOR NONCOMPLIANCE; PROVIDING FOR REMEDIES IN PRIVATE ACTIONS AND A 2-YEAR STATUTE OF LIMITATIONS; REQUIRING THAT LOCAL TELEPHONE EXCHANGE COMPANIES NOTIFY CUSTOMERS OF REGULATIONS REGARDING PERSONAL SOLICITATION SALES UNDER RULES SET FORTH BY THE PUBLIC SERVICE COMMISSION; AND AMENDING SECTIONS 30-14-501, 30-14-502, 30-14-503, 30-14-504, 30-14-506, AND 30-14-507, MCA."

## STATEMENT OF INTENT

A statement of intent is required for this bill because it grants to the public service commission rulemaking authority to determine the form of a notice that must be provided to customers of telephone corporations that are local exchange companies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 30-14-501, MCA, is amended to read:

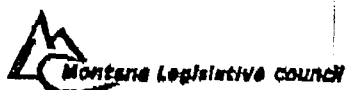
"30-14-501. Purpose. The purpose of this part is to ~~afford consumers subjected to high pressure~~ protect the public from financial hardship resulting from fraud, deception, and misinformation from personal solicitation sales ~~and to encourage competition between and fair dealing by~~ personal solicitors."

Section 2. Section 30-14-502, MCA, is amended to read:

"30-14-502. Definitions. As used in this part, the following definitions apply:

(1) "Buyer" means anyone who gives a consideration for the purchase or use of goods or services.

(2) "Personal solicitation" means any attempt by a seller or another individual ~~who regularly~~ engaged in transactions of the same kind to sell goods or services ~~which are primarily for personal, family,~~



**SB 356**  
INTRODUCED BILL



54th Legislature

LC0223.01

1 ~~or household purposes~~, when either the seller or a person acting for ~~him the seller~~ contacts the potential  
 2 buyer by telephone, facsimile transmission, or in person other than at the place of business of the seller,  
 3 except:

4 (a) an attempted sale in which the buyer personally knows the identity of ~~the seller~~, knows the  
 5 name of the business, firm, or organization he that the seller represents, has <sup>a prior or</sup> existing business  
 6 relationship with the seller, and knows the identity or kinds of goods or services offered for sale;

7 (b) an attempted sale in which the buyer has initiated the contact with the seller;

8 (c) an attempted sale of a newspaper subscription in which the seller is a minor engaged in both  
 9 the delivery and the sale of the newspaper; or

10 (d) an attempted sale of an insurance policy.

11 (3) "Personal solicitation sale" means the purchase, lease, or rental of any goods or services  
 12 following a personal, telephone, or facsimile transmission solicitation by the seller or a person acting for  
 13 ~~him the seller, provided if~~ the buyer is required to give consideration ~~in excess of \$25 in cash or credit~~  
 14 therefor for the goods or services.

15 (4) "Seller" means a lessor, renter, or anyone offering goods or services for consideration, including  
 16 the assignee of a seller.

17 (5) "Telephone solicitation" means a plan, program, or campaign that is conducted by telephone  
 18 or by facsimile or electronic transmission to induce, invite, request, or encourage a customer to purchase,  
 19 lease, rent, or invest in goods or services. The term includes but is not limited to a communication in  
 20 which:

21 (a) a gift, award, or prize of goods or services is offered that is represented or implied to be offered  
 22 below the retail price of the goods or services; or

23 (b) a return telephone call is invited from the potential buyer or a followup call is made to the  
 24 potential buyer by the solicitor for the purpose of closing a sale.

25 (6) "Telephone solicitor" means a person who, on the person's own behalf or through another  
 26 person, engages in a telephone solicitation."

27  
 28 NEW SECTION. Section 3. Exemptions. (1) The provisions of this part are not applicable to  
 29 personal solicitations in which:

30 (a) the buyer is personally acquainted with the seller, knows the name of the business, firm, or

EXHIBIT 15  
 DATE 3-17-95  
 SB 356

P. 07

54th Legislature

LC0223.01

*a prior or**or*

- 1 organization that the seller represents, has an existing business relationship with the seller, and knows the  
 2 identity or types of goods or services offered for sale;  
 3 (b) the buyer has initiated the contact with the seller;  
 4 (c) the seller is a minor engaged in both the delivery and sale of a newspaper;  
 5 (d) an insurance policy is being sold by an insurance producer licensed under 33-17-201 and is  
 6 subject to enforcement by the commissioner of insurance pursuant to Title 33, chapter 17, part 10;  
 7 (e) the solicitation is an isolated transaction and is not part of a pattern of repeated transactions  
 8 of a similar nature;  
 9 (f) the solicitation is made by or on behalf of a nonprofit organization; or  
 10 (g) the seller is subject to the jurisdiction of the public service commission or the federal  
 11 communications commission.

12 (2) In an action to enforce the provisions of this section, the individual or organization claiming an  
 13 exemption from the provisions of this part has the burden of proof.

14  
 15 NEW SECTION. Section 4. Special revenue fund. There is a state special revenue fund established  
 16 under the provisions of 17-2-102 for the administration and enforcement of this part.

*See comments*

17  
 18 NEW SECTION. Section 5. No solicitation calls list - penalty. (1) A person who chooses to be  
 19 placed on a list indicating that the person does not wish to receive telephone solicitation calls may notify  
 20 the department of commerce and be placed on a "no solicitation calls" list upon payment of a \$10 fee to  
 21 the department. A person who wishes to remain on the list after the first year may renew the person's  
 22 status annually by submitting \$5 to the department.

23 (2) The department shall update the no solicitation calls list on receipt of a fee from a consumer and  
 24 provide the updated list to telephone solicitors upon request.

25 (3) A telephone solicitor may not make or cause to be made any unsolicited sales call to a  
 26 residential, mobile, or telephone paging device telephone number if the number appears on the no  
 27 solicitation calls list maintained by the department.

28 (4) A telephone solicitor may not sell or offer to sell information that includes a person's telephone,  
 29 facsimile, or paging device number if the number is on the no solicitation calls list.

30 (5) The no solicitation calls list provided for in subsections (1) and (2) is not a mailing list and is not



Montana Legislative Council

54th Legislature

LC0223.01

1 subject to 2-6-109.

2 (6) The penalty for noncompliance with subsections (3) and (4) is \$500, to be collected by the  
3 department. The funds collected from violators must be deposited in the state special revenue fund  
4 established in [section 4].

5

### *New Section. Section 5. No solicitation calls*

( ) No person or entity shall initiate any telephone solicitation to a residential telephone subscriber (1) before the hour of 8 A.M. or after 9 P.M. (local time at the called party's location), and (2) unless such person or entity has instituted procedures for maintaining a list of persons who do not wish to receive telephone solicitations made by or on behalf of that person or entity. The procedures instituted must meet the following minimum standards:

( ) Written policy. Persons or entities making telephone solicitations must have a written policy, available upon demand, for maintaining a do-not-call list.

( ) Training of personnel engaged in telephone solicitation. Personnel engaged in any aspect of telephone solicitation must be informed and trained in the existence and use of the do-not-call list.

( ) Recording, disclosure of do-not-call requests. If a person or entity making a telephone solicitation (or on whose behalf a solicitation is made) receives a request from a residential telephone subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name and telephone number on the do-not-call list at the time the request is made. If such requests are recorded or maintained by a party other than the person or entity on whose behalf the solicitation is made will be liable for any failures to honor the do-not-call request. In order to protect the consumer's privacy, persons or entities must obtain a consumer's prior express consent to share or forward, the consumer's request not to be called to a party other than the person or entity on whose behalf a solicitation is made or an affiliated entity.

*after page 3*

Section 6. Section 30-14-503, MCA, is amended to read:

"30-14-503. Disclosure obligation. (1) Before any personal or telephone solicitation, each a seller shall, at the time of initial contact or communication with the potential buyer, clearly and expressly disclose:

(a) the individual seller's name;

(b) the name of the business, firm, or organization he represents represented;

(c) the identity or kinds of goods or services he wishes to demonstrate or sell to be demonstrated or sold; and that he wishes

(d) the seller's desire to demonstrate or sell the identified goods or services.

(2) At the potential buyer's request, the seller shall provide the business telephone or facsimile number from which the call is being made and the telephone number of the seller's business organization.

When the initial contact is made in person, the seller shall also show the potential buyer an identification card which that clearly states the seller's name and the name of the business or organization he represents represented.

(3) The disclosures required by this section shall must be made before asking the seller asks any questions or making makes any statements, except an initial greeting.

(4) Nonprofit organizations are exempt from the requirements of this section.

(5) The seller shall inform the buyer in writing at the time that a purchase agreement is completed of the buyer's right to cancel as provided in 30-14-505."

30-14-503. Disclosure obligation.  
personal or

( ) Identification of telephone solicitor. A person or entity making a telephone solicitation must provide the called party with the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted.

NEW SECTION. Section 7. Credit card transactions -- penalty. (1) A merchant who engages a telephone solicitor to make or cause to be made a telephone sales call may not make or submit a charge to a consumer's credit card account until the merchant has received from the consumer a written verification of the consumer's agreement to purchase the item offered for sale by the telephone solicitor.

(2) A person who purposely or knowingly violates the requirements of this section is guilty of theft by deception and is subject to criminal prosecution and penalties under 45-5-301.



### *Section 7*

18 Sec. 77-03. CHARGES TO CONSUMER CREDIT ACCOUNT. A person  
19 who sells consumer goods and services through the use of a  
20 telephone solicitor may not make or submit a charge to a consumer's  
21 credit card account unless:

22 (1) the seller provides that the consumer may receive  
23 a full refund for the return of undamaged and unused goods or a  
24 cancellation of services by providing notice to the seller not  
25 later than the seventh day after the date the consumer receives the  
1 goods or services and in which the seller will process:

2 (A) a refund not later than the 30th day after  
3 the date the seller receives the returned merchandise from the  
4 consumer;

5 (B) a full refund not later than the 30th day  
6 after the purchaser of services cancels an order for the purchase  
7 of services not performed or a pro rata refund for any services not  
8 yet performed for the consumer;

9 (2) the seller provides to the consumer a written  
10 contract fully describing the goods or services being offered, the  
11 total price to be charged, the name, address, and business phone of  
12 the seller, and any terms or conditions affecting the sale and  
13 receives from the consumer a signed copy of such contract; or

14 (3) the seller is an organization that qualifies for  
15 and has obtained an exemption from federal income tax from the  
16 Internal Revenue Service under Section 501(c)(3), Internal Revenue  
17 Code of 1986 (26 U.S.C. Section 501(c)(3)).

*after page 4*

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1 Section 8. Section 30-14-504, MCA, is amended to read:

2 "30-14-504. Buyer's right to cancel -- time allowed -- notice -- return of goods. (1) Except as  
3 provided in subsection (5), in addition to any right ~~otherwise~~ to revoke an offer, the buyer or any other  
4 person obligated for any part of the purchase price may cancel a personal solicitation sale until midnight  
5 of the third business day after the day on which the buyer has signed an agreement or offer to purchase  
6 relating to such ~~the sale, sale, provided that in~~ in the case of a personal solicitation sale made by telephone,  
7 the buyer may cancel at any time prior to ~~he the~~ signing of an agreement ~~or, offer, or contract~~ to purchase  
8 relating to such ~~the~~ sale.

9 (2) Cancellation occurs when written notice of cancellation is given to the seller.

10 (3) Notice of cancellation, if given by mail or facsimile transmission, is considered given when  
11 properly addressed and deposited in a mailbox properly addressed and postage prepaid, or when sent by  
12 facsimile transmission.

13 (4) Notice of cancellation need not take the form prescribed and ~~shall be~~ is sufficient if it indicates  
14 the intention of the buyer not to be bound.

15 (5) A personal solicitation sale may not be canceled if, in the case of goods, the goods cannot be  
16 returned to the seller in substantially the same condition as when received by the buyer."

17  
18 Section 9. Section 30-14-506, MCA, is amended to read:

19 "30-14-506. Repayment to buyer -- retention of goods by buyer. (1) Except as provided in this  
20 section, within <sup>30</sup>~~10~~ days after a personal or telephone solicitation sale has been canceled or an offer to  
21 purchase revoked, the seller shall tender to the buyer any payments made by the buyer and any note or  
22 other evidence of indebtedness.

23 (2) If the ~~down payment~~ downpayment includes goods traded in, the goods ~~shall~~ must be tendered  
24 in substantially as good condition as when received by the seller. If the seller fails to tender the goods as  
25 provided by this section, the buyer may elect to recover an amount equal to the trade-in allowance stated  
26 in the agreement.

27 (3) If the seller refuses within the period prescribed by subsection (1) to return the cash ~~down~~  
28 payment downpayment or goods tendered as ~~down payment~~ downpayment, ~~he shall be~~ the seller is liable  
29 to the buyer for the entire ~~down payment~~ downpayment, and if the buyer is successful in ~~his action therefor~~  
30 an action for recovery, the court shall also award ~~him~~ the buyer \$100 plus reasonable ~~attorneys'~~ attorney



*7 regarding goods traded  
in or a down payment  
in a personal  
solicitation*

1 fees and costs.

2 (4) Until the seller has complied with this section, the buyer may retain possession of goods  
3 delivered to ~~him~~ the buyer by the seller and ~~shall have~~ has a lien on the goods in ~~his~~ the buyer's possession  
4 or control for any recovery to which ~~he~~ the buyer may be entitled."

5  
6 Section 10. Section 30-14-507, MCA, is amended to read:

7 "30-14-507. Redelivery of goods. (1) Except as provided by 30-14-506(4), within a reasonable  
8 time after a personal ~~or telephone~~ solicitation sale has been canceled or an offer to purchase revoked, the  
9 buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale but need  
10 not tender at any place other than ~~his~~ the buyer's residence. If the seller fails to demand possession of such  
11 the goods within a reasonable time after cancellation or revocation, the goods ~~shall~~ become the property  
12 of the buyer without obligation to pay for them. For the purpose of this section, 40 days ~~shall be~~ are  
13 presumed to be a reasonable time.

14 (2) The buyer shall take reasonable care of the goods in ~~his~~ the buyer's possession both before  
15 cancellation or revocation and for a reasonable time thereafter ~~after cancellation or revocation~~, during which  
16 time the goods are otherwise at the seller's risk, and ~~each~~ the goods must be returned in substantially the  
17 same condition as received."

18  
19 NEW SECTION. Section 11. Authority of department of commerce, attorney general, and county  
20 attorney. (1) The department of commerce, the attorney general, and a county attorney have the same  
21 authority in enforcing and carrying out the provisions of this part as they have under Title 30, chapter 14,  
22 part 1.

23 (2) Except for penalties collected under [section 5(6)], all penalties, costs, and fees received or  
24 recovered by the department or the attorney general must be paid to the state for deposit in the general  
25 fund.

26  
27 NEW SECTION. Section 12. Private causes of action -- remedies. (1) A person who purchases  
28 goods or services pursuant to a personal solicitation and suffers damages as a result of any act, conduct,  
29 or practice declared unlawful under this part has the same rights and remedies as those granted under Title  
30 30, chapter 14, part 1.

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(2) If the person making the personal solicitation violates any applicable provision of this part, a contract of sale or purchase is void and unenforceable.

(3) If the person making the personal solicitation fails to deliver the goods or services contracted for, the contract to purchase is void and the consumer is entitled to a refund of the purchase price.

(4) A contract, agreement to purchase, or written confirmation executed by a buyer that purports to waive any of the buyer's rights under this part is against public policy and is void and unenforceable.

(5) The remedies provided for in this section are not exclusive and are in addition to any other procedures or remedies for any violation or conduct provided for in any other law.

**NEW SECTION. Section 13. Limitation of action.** (1) A private action may not be brought under the provisions of this part more than 2 years after the cause of action accrues.

(2) A cause of action accrues when the buyer knows or in the exercise of reasonable care should have known about the violation of the provisions of this part.

**NEW SECTION. Section 14. Consumer notification -- rulemaking by public service commission.** (1) A telephone corporation that is a local exchange company, as defined in 53-19-302, shall notify customers of the provisions of 30-14-503 and ~~sections 3 through 5.~~ Publication of the notification in an ~~annual insert in a billing statement mailed to customers or by conspicuous publication in the consumer information pages of local telephone directories~~ relieves a telephone corporation of any liability under this part to buyers or others claiming to have suffered harm from telephone solicitors.

(2) The public service commission shall by rule prescribe the form of the notice provided for in subsection (1).

**NEW SECTION. Section 15. Codification instruction.** [Sections 3 through 5, 7, and 11 through 14] are intended to be codified as an integral part of Title 30, chapter 14, part 5, and the provisions of Title 30, chapter 14, part 5; apply to [sections 3 through 5, 7, and 11 through 14].

-END-





*Attachment**A  
(Presented by  
Ross Cannon)*

## CONSUMER TIPS:

### TELEPHONE PREFERENCE SERVICE

#### ■ WHO SPONSORS THE TELEPHONE PREFERENCE SERVICE?

The Telephone Preference Service (TPS) is a free consumer service sponsored by the Direct Marketing Association (DMA).

Established in 1917, DMA is the oldest and largest national trade association serving the direct marketing field. Members of DMA market goods and services directly to consumers using such media as direct mail and catalogs, telephone, magazine and newspaper ads and broadcast advertising. DMA does not market commercial telemarketing lists; it acts as neither a source nor a clearinghouse for telemarketing lists directed toward consumers.

#### ■ WHAT IS THE PURPOSE OF TPS?

Experience has shown that many people enjoy receiving information about products or services in their homes over the telephone. Many consumers find telephone shopping to be a convenient way to shop. However, some consumers would like to receive fewer telephone solicitation calls at home. TPS is designed to assist those consumers in decreasing the amount of national commercial calls received.

#### ■ HOW DO CONSUMERS REGISTER WITH TPS?

Consumers may register with TPS by writing to:

Telephone Preference Service  
Direct Marketing Association  
P. O. Box 9014  
Farmingdale, NY 11735-9014

The consumer should include his/her name, address and telephone number (with area code) in the letter requesting name removal. Consumers must register with TPS directly: second party requests cannot be processed.

#### ■ WHAT HAPPENS AFTER CONSUMERS REQUEST NAME REMOVAL?

When consumers register with TPS, their names are placed on a name removal file. This "delete file" is made available to business subscribers four times a year - January, April, July, and October. Names are maintained on the file for five years, after which time consumers should register their names again.

Registrants typically see the number of calls they receive begin to decrease approximately three months after their names are entered into the TPS system.

**AMENDMENTS TO HOUSE BILL 488**

Third Reading Copy

*(Presented by Sen. Benedict  
for Jerry Akey)*

Requested by the National Association of Independent Insurers

1. Page 3, lines 10 and 11.  
Strike subsection (i) in its entirety.  
Insert: "(i) the insurer possesses substantial documentation that credit history is significantly correlated with the types of risks insured or to be insured;"
2. Page 3, line 12.  
Strike: "the reason"
3. Page 3, line 13.  
Following: "benefits"  
Insert: "because of credit information relating to the applicant or insured"
4. Page 3, line 15.  
Following: "individual"  
Insert: "mailed within 10 days of receipt of the declination or nonrenewal,"
5. Page 3, line 16.  
Following: "issue"  
Insert: ", or the name and address of a third party where the individual may obtain a copy of credit report,"

To: Senate Committee Members - SB 356

March 12, 1995

Please Copy: John R. Hartel, Chairman  
 Steve Benedict  
 William S. Crismore  
 C. A. Emerson  
 Ken Miller  
 Mike Sprague  
 Gary Porrester  
 Terry Klampe  
 Bill Wilson

From : Cecil and Sharon Sudbrack

I am writing in support of a bill that you are reviewing at this present time, "An act regulating personal solicitation sales by telephone and facsimile transmission".

I have a relative in Montana who has been a victim of telephone fraud and also mail fraud. The biggest of these two has been via the telephone. I understand that this is getting to be more of a problem every day in Montana because other states are passing laws against telephone fraud. The elderly make up the biggest percentage of those people targeted by these scammers. They then are left without funds to take them through retirement or pay for time in a resthome. The family (me), the government, or you the state, then end up paying for their care. The amount of the money leaving your state through these telemarketing via Federal Express and Wire amounts to billions. You can stop some of it by making this a very stringent bill and not watered down by opponents. Some of the opponents, someone told me, are the telephone companies. They oppose it only out of greed and for money, not out of concern of your citizens.

Please listen to the people that will be testifying for this bill and not those against. I can't think of one reason why anyone would want these telemarketers to continue to steal money from your state.

Cecil and Sharon Sudbrack  
 5150 Dogwood Drive  
 New Holland, PA 17557  
 (717) 354-8832

DATE March 17, 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: SB 356 Senator Wilson

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Verne Klingensmith	Self + AARP	SENATE 356	✓	
BILL SQUIRES	MONTANA DIRECTORIES	SB 356		✓
Bill Olson	AARP	SB 356	✓	
Mike Voeller	Love Newspapers Mont	SB 356	amend	
Lloyd Spitzer		SB 356	✓	
Norma Kelly	CITIZENS-MOTHER!	SB 356	✓	
TED KELLY	"	SB 356	✓	
Rene Worley	"	SB 356	✓	
CHARLES L. WORLEY	"	SB 356	✓	
Barbara Rant	US WEST	SB 356		✓ Amend
Brad Griffin	MT Retail Assoc	SB 356	amend	✓
Jim Twilley	MT CHAMBER	SB 356		✓
Annie Baturos	Dept of Commerce	SB 356	✓	
Charles Wark	MT Newspaper Assn	SB 356	✓	

John Wines

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Jim Smith & Bill

MSPOA

356 X

REGISTER F10

Heiner

DATE March 11, 1915  
SENATE COMMITTEE ON Business and Industry  
BILLS BEING HEARD TODAY: SB 356 Senator Wilson

 $\angle$    $\angle$ [illegible]

## REGISTER F10