

IDAHO

Idaho Code

§18-6711. False or Harassing Fax Messages; Penalty

(1) Every person who telephones another and knowingly makes any false statements concerning injury, death, disfigurement, indecent conduct or criminal conduct of the person telephoned or any member of his family, with intent to terrify, intimidate, harass or annoy the called person, is guilty of a misdemeanor. Upon a second or subsequent conviction of the violation of the provisions of this section, the defendant shall be guilty of a felony.

(2) The making of a false statement as herein set out may be prima facie evidence of intent to terrify, intimidate, harass or annoy.

(3) For the purposes of this section, the term "telephone" shall mean any device which provides transmission of messages, signals, facsimiles, video images or other communication between persons who are physically separated from each other by means of telephone, telegraph, cable, wire or the projection of energy without physical connection.

Created by Chapter 326, §2, Session Laws of 1980. Amended by Chapter 167, §6, Session Laws of 1994.

§48-1002. Definitions Pertaining to Telephone and Fax Solicitations

In this chapter [§§48-1001 - 48-1010, the *Idaho Telephone Solicitation Act*]:

(1) "Business days" means all days of the week except Saturdays and Sundays and all other legal holidays as defined in §73-108.

(2) "Conducting business" means making telephone solicitations either to or from locations within the state of Idaho.

(3) "Established business relationship" means a relationship that:

(3)(a) Was formed, prior to a telephone solicitation, through a voluntary, two-way communication between a seller or telephone solicitor and a residential subscriber, with or without consideration, on the basis of an application, purchase, ongoing contractual agreement, or commercial transaction between the parties regarding products or services offered by such seller or telephone solicitor;

(3)(b) Has not been previously terminated by either party; and

(3)(c) Currently exists or has existed within the immediately preceding 18 months.

(4) "Goods" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value.

(5) "Minor" means any person less than 18 years of age.

(6) "Newspaper of general circulation" means a newspaper which holds a second class mailing permit from the United States postal service, has at least 200 subscribers, is made up of at least four pages of at least five columns, is not produced through any

type of mimeographing process, and has been published or distributed within the state of Idaho on a weekly basis for at least 78 consecutive weeks, or on a daily basis, which is defined to be no less than five days of any one week, at least 12 months immediately preceding any telephone solicitation done by or on behalf of such newspaper.

(7) "Person" means natural persons, partnerships, both limited and general, corporations, both foreign and domestic, companies, trusts, business entities, associations, both incorporated and unincorporated, and any other legal entity or any group associated in fact although not a legal entity, or any agent, assign, heir, servant, employee or representative thereof.

(8) "Purchaser" means a person who is solicited to become or does become obligated to a telephone solicitor.

(9) "Services" means any work, labor, help, assistance or instruction wherever provided or performed.

(10) "Telephone directory of general circulation" means a directory containing telephone numbers of individual residents and/or businesses which is published on a community-wide or regional basis and which is widely available to persons residing in such community or region through free distribution or direct purchase of said directory without the requirement of other purchases or affiliations.

(11) "Telephone solicitation" means:

(11)(a) Any unsolicited telephone call to a purchaser for the purpose of asking, inducing, inviting, requesting, or encouraging the purchaser to purchase or invest in goods or services during the course of a telephone call;

or

(11)(b) Any communication in which:

(11)(b)(i) A free gift, award, or prize is offered, or in which it is represented or implied that goods or services are offered below the regular price of the goods or services; and

(11)(b)(ii) A return telephone call is invited or the communication is followed up by a call to the purchaser by the telephone solicitor; and

(11)(b)(iii) It is intended during the course of the return or follow-up call with the purchaser that an agreement to purchase, or a purchase be made.

(11)(c) For purposes of this subsection, "communication" means a written or oral statement or notification or advertisement transmitted to the purchaser through any means.

(12) "Telephone solicitor" means any person who, on his own behalf or through other persons or through use of an automatic dialing-announcing device, engages in a telephone solicitation.

(13) "Unsolicited advertisement" means any advertisement offering goods or services which is transmitted to any person without that person's prior express invitation or permission unless an established business relationship exists between the sender and recipient which has not been terminated by either party.

(14) "Written confirmation" means a writing that includes the following information: the date of purchase, the telephone solicitor's complete address and registration

number, a listing of all goods and/or services purchased, a listing of the price of each good and/or service purchased, the total obligation incurred by the purchaser, and the notice of cancellation as set forth in §48-1004(2).

Created by Chapter 27, §1, Session Laws of 1992. Amended by Chapter 331, §1, Session Laws of 1998; Chapter 452, §2, Session Laws of 2000; and Chapter 102, §1, Session Laws of 2004, effective July 1, 2004.

§48-1003. Prohibited Conduct by Telephone Solicitors

(1) It is an unlawful act for a telephone solicitor to:

- (1)(a) Intimidate or torment any person of normal and reasonable sensitivities in connection with a telephone solicitation;
- (1)(b) Refuse to hang up and free the purchaser's line immediately once requested to do so by the purchaser;
- (1)(c) Misrepresent the price, quality, or availability of the goods or services being offered to the purchaser, or not to disclose all material matters relating directly or indirectly to the offered goods or services;
- (1)(d) Advertise, represent, or imply that the person has the approval or endorsement of any government, governmental office, or agency, unless such is the fact;
- (1)(e) Advertise, represent, or imply that the person has a valid registration number when the person does not;
- (1)(f) Utilize any device or method to block or mislead the intended recipient of the call as to the identity of the solicitor, or the trade name of the person being represented by the solicitor on a caller identification telecommunication device;
- (1)(g) Fail to comply with the provisions of §48-603A *[which prohibits certain solicitation practices]*;
- (1)(h) Violate any applicable provision or requirement of this chapter *[§§48-1001 and following, the Idaho Telephone Solicitation Act]*; and
- (1)(i) Send an unsolicited advertisement to a telephone facsimile machine.

(2) Any violation of the provisions of this chapter is an unlawful, unfair, and deceptive act or practice in trade or commerce for the purpose of applying the Idaho consumer protection act *[Title 48, Chapter 6]*.

Created by Chapter 27, §1, Session Laws of 1992. Amended by Chapter 224, §1, Session Laws of 1997; and Chapter 46, §1, Session Laws of 1999.