

2026 Regular Session

HOUSE BILL NO. 853

BY REPRESENTATIVE MCMAKIN

ADVERTISING: Provides relative to misleading solicitations by nongovernment entities

1 AN ACT

2 To amend and reenact R.S. 51:391, relative to misleading solicitations by nongovernment
3 entities; to provide for what qualifies as a misleading solicitation; to provide for
4 disclosure requirements; to provide for remedies and penalties; to provide for civil
5 damages; to provide for an unfair or deceptive act or practice; to provide for
6 exceptions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 51:391 is hereby amended and reenacted to read as follows:

9 §391. Solicitations; misleading governmental appearance prohibited; misleading
10 connections to the secretary of state prohibited; disclaimer; penalty

11 A. A solicitation by a nongovernmental entity, for the purchase of or
12 payment for a product or service, ~~which is in the form of and reasonably could be~~
13 ~~interpreted or construed as a bill, invoice, or statement of account due, but~~
14 ~~constitutes, in fact,~~ a solicitation for the order by the addressee of goods or services,
15 or both, ~~shall not contain any material which~~ qualifies as a misleading solicitation
16 if it meets any of the following criteria:

17 (1) Reasonably could be interpreted or construed as falsely implying any
18 ~~Louisiana~~ local, state, or federal government connection, approval, or endorsement
19 through the use of a seal, insignia, or name of a ~~state~~ government agency,
20 department, commission, or program, or a citation to a state ~~statute~~ or federal law.

1 (2) Contains any reference to or a citation to a state statute or federal code
2 that misrepresents either the identity of the mailer or the protection or status afforded
3 such matter by ~~the Louisiana state government~~ any government entity.

4 (3) Reasonably could be construed by a business registered with the
5 secretary of state as implying any connection with the secretary of state or requiring
6 payment or additional action to remain in good standing as a business registered with
7 the secretary of state.

8 (4) Contains phrases such as "final notice", "immediate response requested",
9 "official notification", or any similar language, unless the individual or entity has an
10 existing business relationship with the solicitee.

11 (5) Contains an offer for goods and services that results in a subscription
12 service, automatic renewals, or continuous services that is not clearly and
13 conspicuously disclosed within the communication to the consumer.

14 B. ~~In addition to the provisions of Subsection A of this Section, each~~ If
15 considered a misleading solicitation pursuant to Subsection A of this Section, the
16 solicitation will be subject to the following requirements:

17 (1) Each solicitation shall bear on its face, at the beginning, in conspicuous
18 and legible type which is not smaller than fourteen-point font and is in contrast by
19 typography, layout, or color with any other printing on the solicitation, the following
20 disclaimer:

21 "THIS IS A SOLICITATION FOR THE ORDER OF GOODS OR
22 SERVICES, OR BOTH, AND NOT A BILL, INVOICE, OR STATEMENT OF
23 ACCOUNT DUE. YOU ARE UNDER NO OBLIGATION TO MAKE ANY
24 PAYMENTS ON ACCOUNT OF THIS OFFER UNLESS YOU ACCEPT THIS
25 OFFER. THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR
26 ENDORSED BY ANY ~~LOUISIANA STATE GOVERNMENT~~ AGENCY, AND
27 THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE ~~LOUISIANA~~
28 ~~STATE GOVERNMENT.~~"

1 (2) Each such solicitation shall bear, on the outer envelope, if one exists, in
2 conspicuous and legible type, which is not smaller than fourteen-point black font, the
3 following disclaimer:

4 "THIS IS NOT A GOVERNMENT ENTITY."

5 (3) Each such solicitation that utilizes a subscription, automatic renewal, or
6 continuous service shall include the following disclaimer in conspicuous and legible
7 type which is not smaller than fourteen-point black font, the following disclaimer:

8 "THE PAYMENT OR ACCEPTANCE OF THESE GOODS OR SERVICES
9 WILL RESULT IN AUTOMATIC WITHDRAWALS FROM ASSOCIATED
10 BANK ACCOUNTS OR PERIODIC BILLING."

11 C. Any misleading solicitation in violation of ~~this Section~~ Subsection B of
12 this Section shall subject the violator to a civil fine of not more than one thousand
13 dollars per violation in each solicitation. ~~The attorney general shall bring~~
14 ~~proceedings to recover all fines due pursuant to this Section.~~ The remedies and
15 penalties provided in this Section shall be cumulative to all other remedies and
16 penalties provided by law.

17 D. Whoever violates Subsection B of this Section may be liable to the
18 solicitee for civil damages in the amount of three times his losses, plus reasonable
19 attorney fees and costs pursuant to R.S. 51:1401 et seq.

20 E. Each violation of this Section constitutes an unfair or deceptive act or
21 practice in trade or commerce for purposes of the Louisiana Unfair Trade Practices
22 and Consumer Protection Law, R.S. 51:1401, et seq., and shall subject the violator
23 to all actions, remedies, and penalties therein.

24 F. This Section shall not apply to the following:

25 (1) A bank, trust company, savings and loan association, savings bank, credit
26 union, finance or credit company, industrial loan company, or any foreign bank
27 maintaining a branch or agency licensed under the laws of the United States, or any
28 subsidiary or affiliate of these.

- 1 (2) An insurer licensed under Title 22 of the Louisiana Revised Statutes of
 2 1950.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 853 Engrossed

2026 Regular Session

McMakin

Abstract: Provides relative to misleading solicitations by nongovernment entities.

Present law provides for solicitations by a nongovernmental entity.

Present law provides that a solicitation by a nongovernmental entity, for the purchase of or payment for a product or service, which is in the form of and reasonably could be interpreted or construed as a bill, invoice, or statement of account due, but constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both, shall not contain any material which:

- (1) Reasonably could be interpreted or construed as implying any La. state government connection, approval, or endorsement through the use of a seal, insignia, or name of a state agency, department, commission, or program, or a citation to a state statute.
- (2) Contains any reference to or a citation to a state statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the La. state government.
- (3) Reasonably could be construed by a business registered with the secretary of state as implying any connection with the secretary of state or requiring payment or additional action to remain in good standing as a business registered with the secretary of state.

Proposed law amends present law and instead provides that a solicitation by a nongovernmental entity, for the purchase of or payment for a product or service, a solicitation for the order by the addressee of goods or services, or both, shall qualify as misleading solicitation if it meets any of the following criteria:

- (1) Reasonably could be interpreted or construed as falsely implying any local, state, or federal government connection, approval, or endorsement through the use of a seal, insignia, or name of a government agency, department, commission, or program, or a citation to a state or federal law.
- (2) Contains any reference to or a citation to a state statute or federal code that misrepresents either the identity of the mailer or the protection or status afforded such matter by any government entity.
- (3) Reasonably could be construed by a business registered with the secretary of state as implying any connection with the secretary of state or requiring payment or additional action to remain in good standing as a business registered with the secretary of state.
- (4) Contains phrases such as "final notice", "immediate response requested", "official notification", or any similar language, unless the individual or entity has an existing business relationship with the solicitee.

- (5) Contains an offer for goods and services that result in a subscription service, automatic renewals, or continuous services that are not clearly and conspicuously disclosed within the communication to the consumer.

Present law provides for additional requirements for solicitors.

Proposed law provides that certain requirements listed in present and proposed law are only necessary if considered a misleading solicitation.

Present law provides for what shall be included in the disclaimer on each solicitation.

Proposed law removes references to La. State in the disclaimer.

Proposed law provides for what each solicitation shall bear, on the outer envelope, if one exists.

Proposed law provides for what solicitations that utilize a subscription, automatic renewal, or continuous service shall include in the disclaimer.

Present law provides that any solicitation in violation of present law shall subject the violator to a civil fine of not more than \$1000 per violation. The attorney general shall bring proceedings to recover all fines due pursuant to present law. The remedies and penalties provided in present law shall be cumulative to all other remedies and penalties provided by law.

Proposed law clarifies that present law shall apply to misleading solicitations and that the fine shall apply for each solicitation. Proposed law also removes the requirement that the attorney general bring proceedings to recover all fines due pursuant to present law.

Proposed law provides that whoever violates proposed law may be liable to the solicitee for civil damages in the amount of three times their losses, plus reasonable attorney fees and costs pursuant to present law.

Proposed law provides that each violation of present and proposed law constitutes an unfair or deceptive act or practice in trade or commerce for purposes of present law (La. Unfair Trade Practices and Consumer Protection Law) and shall subject the violator to all actions, remedies, and penalties therein.

Proposed law provides for exemptions to present and proposed law.

(Amends R.S. 51:391)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.
2. Change that a violator of present and proposed law may be liable for certain damages instead of shall be liable for certain damages.
3. Add that certain damages, fees, and costs are pursuant to present law.
4. Add exceptions for present and proposed law.