
DIGEST

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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.