

2026 Regular Session

HOUSE BILL NO. 853

BY REPRESENTATIVE MCMAKIN

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 renewal, or continuous service 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:

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 the Louisiana Unfair Trade Practices and
 20 Consumer Protection Law, R.S. 51:1401 et seq.

21 E. Each violation of this Section constitutes an unfair or deceptive act or
 22 practice in trade or commerce for purposes of R.S. 51:1401, et seq., and shall subject
 23 the violator 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, or any subsidiary or affiliate of these.

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

3 (3) A licensed motor vehicle dealer as defined in Title 32 of the Louisiana
4 Revised Statutes of 1950.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____