Bill as Introduced

2001 SESSION

01-0163
05/09

HOUSE BILL ***470***

AN ACT relative to caller identification requirements for persons engaged in telephone solicitation.

SPONSORS: Rep. R. L'Heureux, Hills 18; Rep. Melcher, Hills 11; Rep. Leach, Hills 9; Rep. Lessard, Hills 23; Rep. C. Hall, Hills 18; Sen. Roberge, Dist 9; Sen. Pignatelli, Dist 13

COMMITTEE: Commerce

ANALYSIS

This bill requires telephone solicitors to provide recipients of their calls with caller identification information, including a telephone number at which the solicitor may receive calls. The bill expands the definition of solicitation to include calls to non-residential telephone subscribers. The bill also clarifies that blocking caller identification information when conducting any type of telephone solicitation is prohibited.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 470 – AS INTRODUCED

01-0163
05/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand One

AN ACT relative to caller identification requirements for persons engaged in telephone solicitation.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Use of Automatic Telephone Dialing Systems and Caller Identification Services; Definition of Solicitation. Amend RSA 359-E:1, II to read as follows::

II. "Solicitation" means the unrequested initiation of a telephone call to a [~~residential~~] telephone subscriber for the purposes of giving, selling, or leasing services or goods, whether real or personal, tangible or intangible; or to gain a pledge, promise or contribution in circumstances where there is no pre-existing relationship between the caller and the person called; or to obtain information, data or opinions.

2 Use of Automatic Telephone Dialing Systems and Caller Identification Services; Blocking Prohibited. Amend RSA 359-E:5-a to read as follows:

359-E:5-a Blocking Prohibited. No person using [~~an automated~~] *a* telephone [~~dialing~~] system [~~or any other method~~] for solicitation in this state shall use any method, including per-call blocking or per-line blocking, that prevents caller identification information for the telephone solicitor's lines used to make telephone calls to a [~~residential~~] telephone subscriber from being shown by a device capable of displaying caller identification information. The caller identification information displayed shall contain a telephone number at which the telephone solicitor may receive telephone calls [~~if the telephone solicitor leaves a message on a telephone answering device or uses an automatic telephone dialing system that plays a recorded message when a connection is completed to a telephone number~~].

3 New Section; Automatic Telephone Dialing Systems and Caller Identification Services; Telephone Number of Solicitor Required. Amend RSA 359-E by inserting after section 359-E:5-a the following new section:

359-E:5-b Telephone Number of Solicitor Required. Any person engaged in telephone solicitation shall make telephone calls to telephone subscribers only from a device capable of transmitting caller identification information. The caller identification information transmitted shall contain a telephone number at which the telephone solicitor may receive telephone calls.

4 Effective Date. This act shall take effect January 1, 2002.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 470 Date 2-20-01

Committee Commerce

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Senator Pignatelli				✓	
Rep Edward R. Leach				✓	

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE

PUBLIC HEARING ON HB 470

BILL TITLE: relative to caller identification requirements for persons engaged in telephone solicitation.

DATE: February 20, 2001

LOB ROOM: 302 **Time Public Hearing Called to Order:** 10:05 am

Time Adjourned: 10:55 am

(please circle if present)

Committee Members: Reps. Hunt, L. Fraser, Francoeur, Tsiros, Belanger, Avery, Kenney, Langley, DiFruscia, Marshall, Marshall Quandt, D. Flanders, Spiess, M. Clark, Crosby, R. Russell, T. Reardon, Taylor, Keye and Batchelder.

Bill Sponsors: Reps. Lessard, Leach and Sen. Roberge

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Bob Lessard. Prime sponsor – This is a simple bill. You have to produce a number if someone wants to get back to the call they have at number available. No way to file a complaint now. If number even provided you would have some place to go. Business people are getting more and more calls. Sponsor's family has requested their name be taken off list but stated you have no way of getting this done. Federal law requires telemarketing company to give a number if requested.

Q: Rep. John Hunt How can this law be enforced? (Boiler room operation could care less about such laws.)

Rep. Charles Hall – Supports concept. Would like numbers not to be erased from caller ID

Rep. Hal Melcher – Simpler than a bill he previously sponsored. It is unacceptable for people to solicit money, without ID.

Chuck Miller, representing self – Brought this matter to sponsor.. Had received numerous calls about this when he was a prosecutor. ID is blocked on caller ID the majority of the time. If Caller ID was not blocked a person would have a name and number to call back. Automated dial is concerned as being the law by AG's Office. He feels it applies to all calls. At present people have no where to go when they desire to have their names removed from the list. FCC law requires telemarkeing company to give a number per John Hunt. Business number ID procedure-a number and resident you call has both number and name. Burden should be on a company not the consumer.

***Richard Bowley, Dehart & Darr, National Direct Marketing** – Opposes parts of bill. Second part of law is not federal law. Will work with subcommittee. Direct marketing is big business and

many people make this their living. Study being done at federal level. Answers will be coming forward soon.

Stuart D. Trachy, AT&T – Explained process of process. Not all companies have same capabilities; most do, but not all. Feels this could be where the problem lies. Some equipment not capable of transmitting all in formation.

Rep. L'Heureux – Removed work "automated" plus "residential"-simple request. 359 E should probably be eliminated alogether.

Rep. Hunt – Businesses are more apt to know ways to eliminate some calls as against the consumer.

Rep. Pierre Bruno – Is getting many calls from consituents re: this subject. Feels many issues must be dealt with at the federal level. Need to get them involved. Will work with subcommittee on both this bill and the bill he previously submitted to the committee.

Respectfully Submitted:

Jane S. Langley

Jane S. Langley, Clerk

Sub-Committee Actions

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE WORK SESSION ON HB 470

BILL TITLE: relative to caller identification requirements for persons engaged in telephone solicitation.

DATE: Held March 19 and April 2, 2001

Subcommittee Members: Reps. Fraser, Batchelder, Spiess

Comments and Recommendations: Vote to Retain.

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.) RETAIN

Moved by Rep. Fraser

Seconded by Rep. Spiess

Vote: 3-0

Respectfully submitted,

Rep. Leo W. Fraser, Jr.
Subcommittee Chairman/Clerk

Testimony

ATTORNEY GENERAL
STATE OF NEW HAMPSHIRE
33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

PHILIP T. McLAUGHLIN
ATTORNEY GENERAL

STEVEN M. HOURAN
DEPUTY ATTORNEY GENERAL

February 22, 2001

The Honorable John B. Hunt
Chairman
Commerce Committee
Legislative Office Building, Rm. 302
Concord, NH 03301

Re: RSA 359-E:5-a

Dear Representative Hunt:

Enclosed please find a copy of the Memo that I have circulated to the members of the Consumer Protection and Antitrust Bureau with respect to RSA 359-E:5-a.

As we discussed, the Bureau's official interpretation is that the "prohibited blocking" applies, not only to automated telephone dialing systems, but to any and all other methods of solicitation in this state.

Please accept my apology for the apparent incorrect information that may have been given out from this Bureau.

Sincerely,

M. Kristin Spath
Senior Assistant Attorney General
Consumer Protection and Antitrust Bureau
(603) 271-3643

MKS:lj
Enclosure
158740

Memorandum

To: Consumer Bureau Staff and Volunteers

From: M. Kristin Spath K. Spath

Date: February 22, 2001

Re: RSA 359-E, Use of Telephone Dialer Systems and Caller ID Services

---

It has come to my attention that some misinformation and a misinterpretation of this statute may have been provided to an individual who called with an inquiry.

In the first instance, please be reminded that only the attorneys in the Bureau are authorized to provide legal opinions or interpretations on anything.

In the second instance, I would like to clear up the misinformation that may have been given out. Specifically, at RSA 359-E:5-a, a copy of which is attached, the discussion is in regard to telephone number blocking being prohibited. The person who called said they were told that we interpreted that statute as only addressing prohibiting blocking on automated telephone dialing systems. This is incorrect. If you read the entire first sentence, you will see that blocking is also prohibited on "any other method for solicitation in this state."

Please be very conscious of your roles as you deal with consumer inquiries.

Thank you and please feel free to see me if you have any questions.

158727

HB 470

The purpose of this memorandum is to explain why some telephone marketers are unable, because of technology, to display caller id at this time.

Please note that The DMA does not oppose a prohibition on
blocking (concealing) caller id
altering caller id (use a different number or all zeros)

Blocking or altering is deceptive.

It should also be recognized that federal law requires a telephone marketer to give the consumer an address or a telephone number at which the solicitor can be reached.

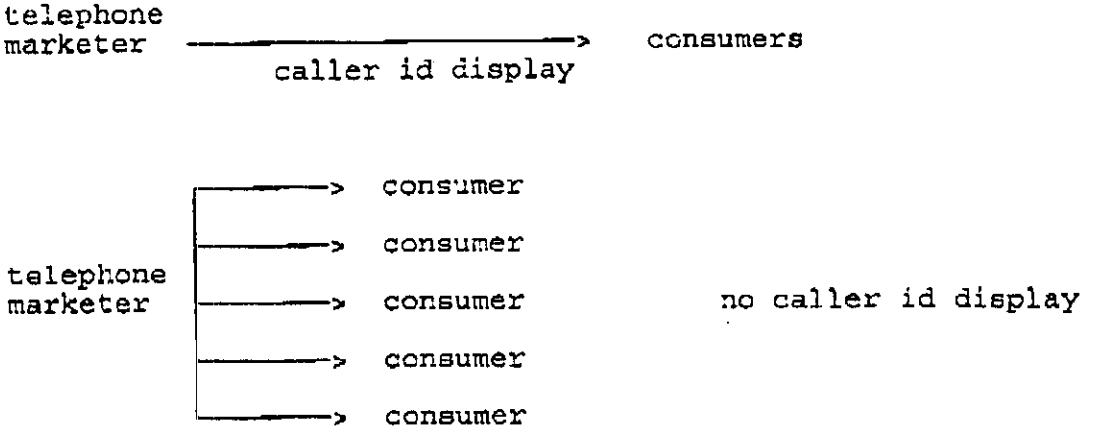
But many marketers are simply unable to display caller id.

Requiring caller id display would have these onerous results:

considerable cost
depletion of number pools
forced changes of local exchanges in large service areas
reduced consumer access to lower prices resulting from competition
because of cost -- only the largest telephone marketers could even consider altering equipment
job losses

It is a complicated issue so we provide this illustration and description of the problem.

If you have questions, please contact Dan Smith (for The DMA) at 800 890 6900 and we will try to answer by discussing your question with experts.



BILLING ACCOUNTS

Billing accounts provide the basis for Caller ID service. Each 10 digit telephone number is tied to an underlying billing account - one account may be associated with multiple telephone numbers.

ORIGINATING SERVICE TYPE -- type of telephone service used by the caller or location placing the call.

Switched service refers to ordinary business lines or consumer service, namely where a given line is provided by the local operating telephone company (LEC) or competitive provider (CLEC) and the subscriber can choose an equal access long distance provider.

Dedicated service means that a line is used only for calls carried by the LEC or long distance carrier and no choice of long distance service is available.

The key difference between switched and dedicated service is that dedicated service is not associated with traditional 10 digit telephone numbers, and cannot be linked to billing accounts on a real-time basis.

CALLER ID SERVICE

Two elements are associated with Caller ID - optional service provided on a fee basis by the LEC and a device or telephone capable of reading Caller ID data. This data is carried from one toll switch to another for long distance calls or within a serving area for local calls, usually via SS7 data signals.

With few exceptions, calling party identity can be easily delivered to telephone subscribers with Caller ID service and appropriate equipment, but only for calls which are placed on switched lines.

This same feature is inherently incompatible with dedicated long distance service used by commercial customer. There is presently no effective or economical method of associating dedicated lines with billing accounts.

If identification or other message requirements were to be imposed on dedicated service customers, technical burdens and commercial implications would be considerable.

1. Blocks of telephone numbers would have to be assigned to long distance carriers. This would mean further depletion of number pools, and in turn, could lead to forced changes of local exchanges in large service areas.

2. Local number shortages would hinder entry of CLECs in large service areas. This would keep cable companies and other CLEC competitors from driving the same cost reductions in local service as consumers have enjoyed as a result on long term competition in the long distance market.

3. Users might be required to buy additional equipment to communicate with long distance carrier switches, namely SS7 nodes. Such equipment would be cost prohibitive for all but the largest telephone marketer users.

It should be noted that service advertised to "block" unidentified calls should not be considered in terms of overall solutions to this question. These services simply employ filters to block calls, but do not change the basic premise of public telephone network communications.

2001 SESSION

P-01-DRAFT.0
05/

HOUSE CONCURRENT RESOLUTION ***[resolution number]***

A RESOLUTION urging the state attorneys general and the Federal Trade Commission to enforce the Telemarketing Sales Rule and urging Congress to adopt the Know Your Caller Act of 2001.

SPONSORS: [sponsors]

COMMITTEE: [committee]

ANALYSIS

This bill urges the state attorneys general and the Federal Trade Commission to enforce the Telemarketing Sales Rule, which, among other things, requires telemarketers maintain do-not-call lists. The bill also urges Congress to adopt the Know Your Caller Act of 2001, which provides additional consumer protections relative to telephone solicitation.

- -

P-01-DRAFT.0
05/

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand One

A RESOLUTION urging the office of the state attorneys general and the Federal Trade Commission to enforce the Telemarketing Sales Rule and urging Congress to adopt the Know Your Caller Act of 2001.

Whereas, telephone subscribers in New Hampshire and throughout the country receive innumerable telephone calls from various telemarketers operating in this country and in other countries; and

Whereas, many telephone subscribers are annoyed by the relentless calling at the most inconvenient times during the day, and other such subscribers have received calls from unscrupulous telemarketers and have been victims of their fraudulent practices; and

Whereas, the Telemarketing Sales Rule and Know Your Caller Act of 2001 are intended to protect subscribers from unscrupulous telemarketers and to maintain the privacy and harmonious nature of American homes; and

Whereas, the Telemarketing Sales Rule requires telemarketers to maintain a list of telephone subscribers who do not wish to receive any further calls from a particular seller; provides for penalties in amounts as high as $10,000 per violation; and allows the Federal Trade Commission, states, and private persons to enforce such provisions; and

Whereas, the Telephone Consumer Protection Act of 1991 also requires that telemarketers abide by "do-not-call" requests from consumers as well as restricts telemarketing calling hours, mandates identification of the telephone solicitor, and includes both a private right of action and a right of action by states; and

Whereas, the Know Your Caller Act of 2001 strengthens the consumer protections of the Telephone Consumer Protection Act by preventing telemarketers from blocking caller identification information, by requiring telemarketers to provide such information when they have the capability of doing so, and by prohibiting telemarketers from using information on "do-not-call" lists for any other marketing purpose; and

Whereas, since telemarketers can evade state laws restricting telephone

solicitation through interstate operation, federal regulation and enforcement actions are needed to control residential telemarketing practices; now therefore be it

Resolved by the House of Representatives, the Senate concurring:

That the general court urges the state attorneys general and the Federal Trade Commission to vigorously enforce the provisions of the Telemarketing Sales Rule that require telemarketers to cease from calling telephone subscribers who have previously requested to be placed on a list of subscribers who do not wish to receive any further calls from that telemarketer and to assess the appropriate penalties for violation of such provisions; and

That the general court urges the United States Congress to pass the Know Your Caller Act of 2001, which will provide telephone subscribers with additional protection from telemarketing abuses and annoyances; and

That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America, to each member of the New Hampshire congressional delegation, to the chairman of the Federal Trade Commission, to the chairman of the Federal Communications Commission, and to the president of the National Association of Attorneys General.

Voting Sheets

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION on HB 470

BILL TITLE: **relative to caller identification requirements for persons engaged in telephone solicitation.**

DATE: April 11, 2001

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Retain) (Please circle one.)

Moved by Rep. Fraser

Seconded by Rep. Flanders

Vote: 13-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE}

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jane S. Langley, Clerk

COMMERCE

Bill #: 470 Title: _____

PH Date: ____/____/____ Exec Session Date: ____/____/____

Motion: _____ Amendment #: _____

MEMBER	YEAS	NAYS
Hunt, John B, Chairman		
Fraser, Leo W, V Chairman	✓	
Francoeur, Sheila T	✓	
Tsiros, William	✓	
Belanger, Ronald J		
Avery, Stephen G	✓	
Kenney, Joseph D	✓	
Langley, Jane S	✓	
DiFruscia, Anthony R		
Marshall, Gene B	✓	
Quandt, Marshall E		
Flanders, Donald H	✓	
Spiess, Paul D	✓	
Clark, Martha Fuller		
Crosby, Toni M	✓	
Russell, Ronald G		
Reardon, Tara G		
Taylor, Kathleen N	✓	
Keye, Harvey	✓	
Batchelder, Robert C	✓	
TOTAL VOTE:	13	0

Printed: 1/3/2001

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION on HB 470

BILL TITLE: **relative to caller identification requirements for persons engaged in telephone solicitation.**

DATE: December 4, 2001

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Fraser

Seconded by Rep. Keye

Vote: 15-1 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 16-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jane S. Langley, Clerk

OFFICE OF THE HOUSE CLERK 2001 SESSION

COMMERCE

Bill #: HB 470 **Title:** _____

PH Date: ___/___/___ **Exec Session Date:** 12/4/01

Motion: ITL **Amendment #:** _____

MEMBER	YEAS	NAYS
Hunt. John B. Chairman		
Fraser. Leo W. V Chairman	✓	
Francoeur. Sheila T	✓	
Tsiros. William	A	
Belanger. Ronald J	✓	
Averv. Stephen G		✓
Kennev. Joseph D	✓	
Langlev. Jane S	✓	
DiFruscia. Anthonv R	✓	
Marshall. Gene B. Clerk	✓	
Quandt. Marshall E	✓	
Flanders. Donald H	✓	
Spiess. Paul D	✓	
Clark. Martha Fuller	A	
Crosbv. Toni M	✓	
Reardon. Tara G	✓	
Taylor. Kathleen N	✓	
Keve. Harvev	✓	
Batchelder. Robert C	✓	
Slack. Pamela Russell	A	
TOTAL VOTE:	15	1

Printed: 11/9/2001

Committee Report

COMMITTEE REPORT

COMMITTEE: **Commerce**

BILL NUMBER: **HB 470**

TITLE: relative to caller identification requirements for persons engaged in telephone solicitation.

DATE: December 4, 2001 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

In this first year of the biennium, the committee dealt with three bills relative to telemarketing practices. Because of interstate commerce issues, it is difficult to regulate against the telemarketers. The Commerce Committee requested that the New Hampshire Telephone industry do a special mailing advising their customers what can be done to stop telemarketers from making these calls. It is our understanding that 100% of users with telephone wires have been contacted. Based on this, the committee recommends that HB 470 be reported out as inexpedient to legislate.

Vote 15-1.

Rep. Leo W. Fraser, Jr.
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Commerce

HB 470, relative to caller identification requirements for persons engaged in telephone solicitation.

INEXPEDIENT TO LEGISLATE

Rep. Leo W. Fraser, Jr. for Commerce: In this first year of the biennium, the committee dealt with three bills relative to telemarketing practices. Because of interstate commerce issues, it is difficult to regulate against the telemarketers. The Commerce Committee requested that the New Hampshire Telephone industry do a special mailing advising their customers what can be done to stop telemarketers from making these calls. It is our understanding that 100% of users with telephone wires have been contacted. Based on this, the committee recommends that HB 470 be reported out as inexpedient to legislate **Vote 15-1.**

Stapler, Carol

From: John Hunt [jbhunt@prodigy.net]
Sent: Thursday, December 06, 2001 7:00 PM
To: Stapler, Carol
Subject: Re: HB 470 Revised

on 12/6/01 10:23 AM, Stapler, Carol at carol.stapler@leg.state.nh.us wrote:

> HB 470
> Rep. Fraser
>
> In this first year of the biennium, the committee dealt with three bills
> relative to telemarketing practices. Because of interstate commerce issues,
> it is difficult to regulate against the telemarketers. The Commerce
> Committee requested that the New Hampshire Telephone industry do a special
> mailing advising their customers what can be done to stop telemarketers from
> making these calls. It is our understanding that 100% of users with
> telephone wires have been contacted. Based on this, the committee
> recommends that HB 470 be reported out as inexpedient to legislate.
>

JBH

HB 470
Rep. Fraser

In this first year of the biennium, the committee dealt with three bills relative to telemarketing practices. Because of interstate commerce issues, it is difficult to regulate against the telemarketers. The Commerce Committee requested that the New Hampshire Telephone industry do a special mailing advising their customers what can be done to stop telemarketers from making these calls. It is our understanding that 100% of users with telephone wires have been contacted. Based on this, the committee recommends that HB 470 be reported out as inexpedient to legislate.

COMMITTEE REPORT

COMMITTEE: _____

BILL NUMBER: HB 470

TITLE: _____

_____

DATE: _____ **CONSENT CALENDAR:** YES ☐ NO ☐

☐ **OUGHT TO PASS**

☐ **OUGHT TO PASS W/ AMENDMENT**

☐ **INEXPEDIENT TO LEGISLATE**

☐ **RE-REFER**

☐ **INTERIM STUDY** (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

In this first year of the bi-ennium the Committee dealt with three bills relative to tele marketing practices. Because of inter-State Commerce issues et al difficult & dual ~~with~~ Regulate against the tele marketers. It was the recommendation of all members of the Commerce Committee that we retain HB 470 and request the NH telephone industry do a Special Mailing advising their customers

COMMITTEE VOTE: _____

- **Copy to Committee Bill File**
- **Use Another Report for Minority Report**

RESPECTFULLY SUBMITTED,

Rep. _____
For the Committee

Rev. 07/30/99

of ~~the~~ what can be done, to

stop the marketers from making

making these calls. So far as we

can determine, 100% of ~~the~~ users

with telephone ~~we~~ wireless have

been contacted

Based on this, the committee

now recommends that HB 470 be

unfavorable to legislate