

1 § -1 **Definitions.** As used in this chapter:

2 "Resident" means any person having a mailing address in
3 Hawaii but excludes commercial entities.

4 "Solicitation" means any communication by mail for the
5 purpose of soliciting the sale of consumer goods or services or
6 for the purpose of encouraging the purchase or rental of, or
7 investment in, property, goods, or services; but excluding
8 communications:

9 (1) If the sender obtained the resident's prior express
10 invitation or permission;

11 (2) By or on behalf of any person or entity with whom a
12 resident has had a business contact in the past one
13 hundred eighty days or a current business
14 relationship;

15 (3) By or on behalf of an entity organized under section
16 501(c)(3) of the Internal Revenue Code of 1986, as
17 amended, while the entity is engaged in fund-raising
18 to support the charitable purpose for which the entity
19 was established; provided that a bona fide member of
20 the exempt organization makes the communication; and

21 (4) By or on behalf of any entity over which a federal
22 agency has regulatory authority to the extent that:



1 (A) The entity is required to maintain a license,
2 permit, or certificate to sell or provide the
3 merchandise being offered by mail; and

4 (B) The entity is required by law or rule to develop
5 and maintain a no-mail list.

6 § -2 **Unlawful action.** A person or entity shall not mail
7 or cause to be mailed any solicitation to the mailing or
8 physical address of any resident who has given notice of the
9 resident's objection to receiving any solicitation in accordance
10 with rules adopted under chapter 91 to implement this chapter.

11 § -3 **"Do-not-mail" registry established.** (a) The
12 department of commerce and consumer affairs shall establish and
13 operate a database of mailing and physical addresses of
14 residents who object to receiving solicitations. The database
15 shall be called the "'Do-not-mail" registry". The department of
16 commerce and consumer affairs shall implement the registry
17 before January 1, 2008.

18 (b) Before January 1, 2008, the department of commerce and
19 consumer affairs shall adopt rules governing the establishment
20 of the "Do-not-mail" registry. The rules shall specify:

21 (1) That there shall be no cost to a resident to be added
22 to or removed from the database;



- 1 (2) The methods by which each resident may give notice to
2 the department or its contractor of the resident's
3 objection to receiving solicitations or revocation of
4 the notice;
- 5 (3) The length of time for which a notice of objection
6 shall be effective and the effect of a change of
7 mailing address;
- 8 (4) The methods by which objections and revocations shall
9 be collected and added to or removed from the
10 database;
- 11 (5) The methods by which any person or entity intending to
12 make solicitations may obtain access to the
13 information contained in the database to avoid mailing
14 solicitations to residents included in the database,
15 including any cost assessed to that person or entity
16 for access to the information; and
- 17 (6) Other matters relating to the database that the
18 department deems necessary or desirable to implement
19 the Act.
- 20 (c) The department shall provide notice to residents:
- 21 (1) Of the establishment of the registry; and



1 (2) About the availability of instructions for requesting
2 information from the department about the registry,
3 including a resident's right to be included in the
4 registry.

5 (d) The department shall consult and work with the United
6 States Postal Service and other private entities to:

7 (1) Ascertain the means by which the registry can be
8 established and maintained most efficiently; and

9 (2) Take all steps possible to assist persons on the
10 registry in ensuring that they do not receive unwanted
11 solicitations through the mail.

12 § -4 **Use of information.** The information contained in
13 the database established under section -3 shall be used only
14 for the purpose of compliance with this chapter. The
15 information shall not be considered a public record.

16 § -5 **Database maintenance.** In January and July of each
17 year, the department shall obtain databases of Hawaii residents
18 who are included on any national no-mail list and shall add the
19 name and address of the residents to the state "Do-not-mail"
20 registry.

21 § -6 **Violations; proceeding; penalties.** (a) The
22 department shall fine any person or entity who violates this



1 chapter or any related rule adopted by the department. The fine
2 shall not exceed \$10,000 for each separate offense. Each date
3 of violation shall constitute a separate offense. The
4 department may seek any appropriate additional relief, including
5 injunctions. Any action taken to impose or collect the penalty
6 provided for in this section shall be considered a civil action.

7 (b) The remedies available in this chapter are cumulative
8 and in addition to any other remedies available by law.

9 § -7 **Suits by individuals.** (a) Any resident who has
10 received more than one solicitation within a twelve-month period
11 by or on behalf of the same person or entity in violation of
12 this chapter may bring an action:

13 (1) To enjoin the violation; and

14 (2) To recover the greater of:

15 (A) actual monetary damages resulting from the
16 violation; or

17 (B) Up to \$10,000 in damages for each violation.

18 (b) It shall be a defense against any claim made under
19 this chapter that the defendant has diligently established and
20 implemented reasonable practices and procedures to prevent
21 solicitations in violation of this chapter.



1 § -8 Statute of limitations. No claim may be made under
2 this chapter more than two years after the later of:

3 (1) The resident making the claim knew or should have
4 known of the violation; or

5 (2) The termination of any proceeding or action arising
6 out of the same violation by the State.

7 § -9 Personal jurisdiction. A court of this State may
8 exercise personal jurisdiction over any nonresident or the
9 nonresident's successor in interest for any proceeding or action
10 based on a violation of this chapter."

11 SECTION 3. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$, or so much
13 thereof as may be necessary for fiscal year 2007-2008, and the
14 same sum, or so much thereof as may be necessary for fiscal year
15 2008-2009, for the purpose of establishing and operating the
16 state "Do-not-mail" registry.

17 The sums appropriated shall be expended by the department
18 of commerce and consumer affairs for the purposes of this Act.

19 SECTION 4. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on July 1, 2007.

21

INTRODUCED BY:

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7.16.07
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Report Title:

State "Do-not-mail" registry

Description:

Requires department of commerce and consumer affairs to establish a state "Do-not-mail" registry. Provides that sending mail to Hawaii residents soliciting the sale of consumer goods or services is prohibited if the recipient's address has been added to the "Do-not-mail" registry. Requires department of commerce and consumer affairs to work with postal authorities and private entities to ensure that persons on registry do not receive unwanted solicitations.

