

department and reserve components of the armed forces of the United States. The provisions of the said act of congress are hereby accepted by this state and this state will observe and comply with the requirements thereof.

NEW SECTION. Sec. 62. The following acts or parts of acts are each repealed:

- (1) Section 44, chapter 130, Laws of 1943 and RCW 38.08.080;
- (2) Section 10, page 74, Laws of 1866, section 2351, Code of 1881, section 4, chapter 135, Laws of 1979 ex. sess. and RCW 38.40.071;
- (3) Section 39, chapter 130, Laws of 1943 and RCW 38.40.080; and
- (4) Section 89, chapter 130, Laws of 1943 and RCW 38.40.160.

Passed the Senate February 22, 1989.

Passed the House April 3, 1989.

Approved by the Governor April 18, 1989.

Filed in Office of Secretary of State April 18, 1989.

CHAPTER 20

[Substitute Senate Bill No. 5088]

COMMERCIAL TELEPHONE SOLICITATION REGULATION

AN ACT Relating to telephone solicitation; amending RCW 9A.82.010 and 63.14.154; adding a new chapter to Title 19 RCW; creating new sections; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The use of telephones for commercial solicitation is rapidly increasing. This form of communication offers unique benefits, but entails special risks and poses potential for abuse. The legislature finds that the widespread practice of fraudulent commercial telephone solicitation is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. For the general welfare of the public and in order to protect the integrity of the telemarketing industry, the commercial use of telephones must be regulated by law.

NEW SECTION. Sec. 2. Unfair and deceptive telephone solicitation is not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 3. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) A "commercial telephone solicitor" is any person who engages in commercial telephone solicitation, including service bureaus.

(2) "Commercial telephone solicitation" means:

(a) An unsolicited telephone call to a person initiated by a salesperson and conversation for the purpose of inducing the person to purchase or invest in property, goods, or services;

(b) Other communication with a person where:

(i) A free gift, award, or prize is offered to a purchaser who has not previously purchased from the person initiating the communication; and

(ii) A telephone call response is invited; and

(iii) The salesperson intends to complete a sale or enter into an agreement to purchase during the course of the telephone call;

(c) Other communication with a person which misrepresents the price, quality, or availability of property, goods, or services and which invites a response by telephone or which is followed by a call to the person by a salesperson;

(d) For purposes of this section, "other communication" means a written or oral notification or advertisement transmitted through any means.

(3) A "commercial telephone solicitor" does not include any of the following:

(a) A person engaging in commercial telephone solicitation where:

(i) The solicitation is an isolated transaction and not done in the course of a pattern of repeated transactions of like nature; or

(ii) Less than sixty percent of such person's prior year's sales were made as a result of a commercial telephone solicitation as defined in this chapter. Where more than sixty percent of a seller's prior year's sales were made as a result of commercial telephone solicitations, the service bureau contracting to provide commercial telephone solicitation services to the seller shall be deemed a commercial telephone solicitor.

(b) A person making calls for religious, charitable, political, or other noncommercial purposes.

(c) A person soliciting business solely from purchasers who have previously purchased from the business enterprise for which the person is calling.

(d) A person soliciting:

(i) Without the intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; and

(ii) Who does not make the major sales presentation during the telephone solicitation; and

(iii) Who only makes the major sales presentation or arranges for the major sales presentation to be made at a later face-to-face meeting between the salesperson and the purchaser.

(e) A person selling a security which is exempt from registration under RCW 21.20.310;

(f) A person licensed under RCW 18.85.090 when the solicited transaction is governed by that law;

(g) A person registered under RCW 18.27.060 when the solicited transaction is governed by that law;

(h) A person licensed under RCW 48.17.150 when the solicited transaction is governed by that law;

(i) Any person soliciting the sale of a franchise who is registered under RCW 19.100.140;

(j) A person primarily soliciting the sale of a newspaper of general circulation, a magazine or periodical, or contractual plans, including book or record clubs: (i) Under which the seller provides the consumer with a form which the consumer may use to instruct the seller not to ship the offered merchandise; and (ii) which is regulated by the federal trade commission trade regulation concerning "use of negative option plans by sellers in commerce";

(k) Any supervised financial institution or parent, subsidiary, or affiliate thereof. As used in this section, "supervised financial institution" means any commercial bank, trust company, savings and loan association, mutual savings banks, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer, provided that the institution is subject to supervision by an official or agency of this state or the United States;

(l) A person soliciting the sale of a prearrangement funeral service contract registered under RCW 18.39.240 and 18.39.260;

(m) A person licensed to enter into prearrangement contracts under RCW 68.05.155 when acting subject to that license;

(n) A person soliciting the sale of services provided by a cable television system operating under authority of a franchise or permit;

(o) A person or affiliate of a person whose business is regulated by the utilities and transportation commission or the federal communications commission;

(p) A person soliciting the sale of agricultural products, as defined in RCW 20.01.010 where the purchaser is a business;

(q) An issuer or subsidiary of an issuer that has a class of securities that is subject to section 12 of the securities exchange act of 1934 (15 U.S.C. Sec. 781) and that is either registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g) of that section;

(r) A commodity broker-dealer as defined in RCW 21.30.010 and registered with the commodity futures trading commission;

(s) A business-to-business sale where:

(i) The purchaser business intends to resell the property or goods purchased, or

(ii) The purchaser business intends to use the property or goods purchased in a recycling, reuse, remanufacturing or manufacturing process;

(t) A person licensed under RCW 19.16.110 when the solicited transaction is governed by that law;

(u) A person soliciting the sale of food intended for immediate delivery to and immediate consumption by the purchaser;

(v) A person soliciting the sale of food fish or shellfish when that person is licensed pursuant to the provisions of Title 75 RCW.

(4) "Purchaser" means a person who is solicited to become or does become obligated to a commercial telephone solicitor.

(5) "Salesperson" means any individual employed, appointed, or authorized by a commercial telephone solicitor, whether referred to by the commercial telephone solicitor as an agent, representative, or independent contractor, who attempts to solicit or solicits a sale on behalf of the commercial telephone solicitor.

(6) "Service bureau" means a commercial telephone solicitor who contracts with any person to provide commercial telephone solicitation services.

(7) "Seller" means any person who contracts with any service bureau to purchase commercial telephone solicitation services.

(8) "Person" includes any individual, firm, association, corporation, partnership, joint venture, sole proprietorship, or any other business entity.

(9) "Free gift, award, or prize" means a gratuity which the purchaser believes of a value equal to or greater than the value of the specific product, good, or service sought to be sold to the purchaser by the seller.

(10) "Solicit" means to initiate contact with a purchaser for the purpose of attempting to sell property, goods or services, where such purchaser has expressed no previous interest in purchasing, investing in, or obtaining information regarding the property, goods, or services attempted to be sold.

NEW SECTION. Sec. 4. (1) It shall be unlawful for any person to engage in unfair or deceptive commercial telephone solicitation.

(2) A commercial telephone solicitor shall not place calls to any residence which will be received before 8:00 a.m. or after 9:00 p.m. at the purchaser's local time.

(3) A commercial telephone solicitor may not engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

NEW SECTION. Sec. 5. (1) In order to maintain or defend a lawsuit or do any business in this state, a commercial telephone solicitor must be registered with the department of licensing. Prior to doing business in this state, a commercial telephone solicitor shall register with the department of licensing. Doing business in this state includes both commercial telephone solicitation from a location in Washington and solicitation of purchasers located in Washington.

(2) The department of licensing, in registering commercial telephone solicitors, shall have the authority to require the submission of information necessary to assist in identifying and locating a commercial telephone solicitor, including past business history, prior judgments, and such other information as may be useful to purchasers.

(3) The department of licensing shall issue a registration number to the commercial telephone solicitor.

(4) It is a violation of this chapter for a commercial telephone solicitor to:

(a) Fail to maintain a valid registration;

(b) Advertise that one is registered as a commercial telephone solicitor or to represent that such registration constitutes approval or endorsement by any government or governmental office or agency;

(c) Provide inaccurate or incomplete information to the department of licensing when making a registration application; or

(d) Represent that a person is registered or that such person has a valid registration number when such person does not.

(5) An annual registration fee shall be assessed by the department of licensing, the amount of which shall be determined at the discretion of the director of the department of licensing, and which shall be reasonably related to the cost of administering the provisions of this chapter.

NEW SECTION. Sec. 6. If the director of the department of licensing determines that a commercial telephone solicitor has failed to register, the director may issue an order in accordance with chapter 34.05 RCW imposing a civil penalty in an amount which may not exceed five thousand dollars.

NEW SECTION. Sec. 7. Each commercial telephone solicitor shall appoint the director of the department of licensing as an agent to receive civil process under this chapter if the commercial telephone solicitor has no properly registered agent, if the agent has resigned, or if the agent cannot, after reasonable diligence, be found.

NEW SECTION. Sec. 8. The director of the department of licensing may make rules, create forms, and issue orders as necessary to carry out the provisions of this chapter, pursuant to chapter 34.05 RCW.

NEW SECTION. Sec. 9. The director of the department of licensing may refer such evidence as may be available concerning violations of this chapter or of any rule or order hereunder to the attorney general or the proper prosecuting attorney, who may in his or her discretion, with or without such a reference, in addition to any other action they might commence, bring an action in the name of the state against any person to restrain and prevent the doing of any act or practice herein prohibited or declared unlawful: PROVIDED, That this chapter shall be considered in conjunction with chapters 9.04 and 19.86 RCW and the powers and duties of the attorney general and the prosecuting attorney as they may appear in chapters 9.04 and 19.86 RCW shall apply against all persons subject to this chapter.

NEW SECTION. Sec. 10. It is a violation of this chapter for a commercial telephone solicitor to require that payment be by credit card authorization or otherwise to announce a preference for that method of payment over any other for unfair or deceptive reasons.

NEW SECTION. Sec. 11. (1) Within the first minute of the telephone call, a commercial telephone solicitor or salesperson shall:

(a) Identify himself or herself, the company on whose behalf the solicitation is being made, the property, goods, or services being sold; and

(b) Terminate the telephone call within ten seconds if the purchaser indicates he or she does not wish to continue the conversation.

(2) If at any time during the telephone contact, the purchaser states or indicates that he or she does not wish to be called again by the commercial telephone solicitor or wants to have his or her name and individual telephone number removed from the telephone lists used by the commercial telephone solicitor:

(a) The commercial telephone solicitor shall not make any additional commercial telephone solicitation of the called party at that telephone number within a period of at least one year; and

(b) The commercial telephone solicitor shall not sell or give the called party's name and telephone number to another commercial telephone solicitor: **PROVIDED**, That the commercial telephone solicitor may return the list, including the called party's name and telephone number, to the company or organization from which it received the list.

(3) The utilities and transportation commission shall by rule ensure that telecommunications companies inform their residential customers of the provisions of this section. The notification may be made by:

(a) Annual inserts in the billing statements mailed to residential customers; or

(b) Conspicuous publication of the notice in the consumer information pages of local telephone directories.

(4) If a sale or an agreement to purchase is completed, the commercial telephone solicitor must inform the purchaser of his or her cancellation rights as enunciated in this chapter, state the registration number issued by the department of licensing, and give the street address of the seller.

(5) If, at any time prior to sale or agreement to purchase, the commercial telephone solicitor's registration number is requested by the purchaser, it must be provided.

(6) All oral disclosures required by this section shall be made in a clear and intelligible manner.

NEW SECTION. Sec. 12. (1) A purchase of property, goods, or services ordered as a result of a commercial telephone solicitation as defined in this chapter, if not followed by a written confirmation, is not final. The confirmation must contain an explanation of the consumer's rights under this section and a statement indicating where notice of cancellation should be sent. The purchaser may give notice of cancellation to the seller in writing within three business days after receipt of the confirmation. If the commercial telephone solicitor has not provided an address for receipt of such

notice, cancellation is effective by mailing the notice to the department of licensing.

(2) Notice of cancellation shall be given by certified mail, return receipt requested, and shall be effective when mailed. Notice of cancellation given by the purchaser need not take a particular form and is sufficient if it indicates by any form of written expression the name, address, and telephone number of the purchaser and the purchaser's stated intention not to be bound by the sale.

(3) If a commercial telephone solicitor or a seller, if different, violates this chapter in making a sale, or fails to deliver an item within forty-two calendar days, the contract is voidable by giving written notice to the seller and the purchaser is entitled to a return from the seller within fourteen days of all consideration paid. Upon receipt by the purchaser of the consideration paid to the seller, the purchaser shall make available to the seller, at a reasonable time and place, the items received by the purchaser. Any cost of returning the items received by the purchaser shall be borne by the seller, by providing or guaranteeing payment for return shipping. If such payment is not provided or guaranteed, the purchaser may keep without further obligation the items received.

(4) Any contract, agreement to purchase, or written confirmation executed by a seller which purports to waive the purchaser's rights under this chapter is against public policy and shall be unenforceable: PROVIDED, That an agreement between a purchaser and seller to extend the delivery time of an item to more than forty-two days shall be enforceable if the seller has a reasonable basis to expect that he or she will be unable to ship the item within forty-two days and if the agreement is included in the terms of the written confirmation.

(5) Where a contract or agreement to purchase confers on a purchaser greater rights to cancellation, refund, or return than those enumerated in this chapter, such contract shall be enforceable, and not in violation of this chapter: PROVIDED, That all rights under such a contract or agreement to purchase must be specifically stated in a written confirmation sent pursuant to this section.

(6) The provisions of this section shall not reduce, restrict, or eliminate any existing rights or remedies available to purchasers.

NEW SECTION. Sec. 13. In addition to any other penalties or remedies under chapter 19.86 RCW, a person who is injured by a violation of this chapter may bring an action for recovery of actual damages, including court costs and attorneys' fees. No provision in this chapter shall be construed to limit any right or remedy provided under chapter 19.86 RCW.

NEW SECTION. Sec. 14. A civil penalty shall be imposed by the court for each violation of this chapter in an amount not less than five hundred dollars nor more than two thousand dollars per violation.

NEW SECTION. Sec. 15. No salesperson shall solicit purchasers on behalf of a commercial telephone solicitor who is not currently registered with the department of licensing pursuant to this chapter. Any salesperson who violates this section is guilty of a misdemeanor.

NEW SECTION. Sec. 16. (1) Except as provided in section 15 of this act, any person who knowingly violates any provision of this chapter or who knowingly, directly or indirectly employs any device, scheme or artifice to deceive in connection with the offer or sale by any commercial telephone solicitor shall be guilty of the following:

If the value of a transaction made in violation of section 4(1) of this act is:

- (a) Less than fifty dollars, the person shall be guilty of a misdemeanor;
- (b) Fifty dollars or more, then such person shall be guilty of a gross misdemeanor; and
- (c) Two hundred fifty dollars or more, then such person shall be guilty of a class C felony.

(2) When any series of transactions which constitute a violation of this section would, when considered separately, constitute a series of misdemeanors or gross misdemeanors because of the value of the transactions, and the series of transactions are part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all the transactions shall be the value considered in determining whether the violations are to be punished as a class C felony or a gross misdemeanor.

Sec. 17. Section 1, chapter 270, Laws of 1984 as last amended by section 5, chapter 33, Laws of 1988 and RCW 9A.82.010 are each amended to read as follows:

Unless the context requires the contrary, the definitions in this section apply throughout this chapter.

(1) "Creditor" means a person making an extension of credit or a person claiming by, under, or through a person making an extension of credit.

(2) "Debtor" means a person to whom an extension of credit is made or a person who guarantees the repayment of an extension of credit or in any manner undertakes to indemnify the creditor against loss resulting from the failure of a person to whom an extension is made to repay the same.

(3) "Extortionate extension of credit" means an extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(4) "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(5) "To collect an extension of credit" means to induce in any way a person to make repayment thereof.

(6) "To extend credit" means to make or renew a loan or to enter into an agreement, tacit or express, whereby the repayment or satisfaction of a debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.

(7) "Repayment of an extension of credit" means the repayment, satisfaction, or discharge in whole or in part of a debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(8) "Dealer in property" means a person who buys and sells property as a business.

(9) "Stolen property" means property that has been obtained by theft, robbery, or extortion.

(10) "Traffic" means to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person.

(11) "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

(12) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(13) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

(14) "Criminal profiteering" means any act, including any anticipatory or completed offense, committed for financial gain, that is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable as a felony and by imprisonment for more than one year, regardless of whether the act is charged or indicted, as any of the following:

- (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and 9A.56.080;
- (f) Child selling or child buying, as defined in RCW 9A.64.030;
- (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and 9A.68.050;
- (h) Gambling, as defined in RCW 9.46.220 and 9.46.230;

- (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- (j) Extortionate extension of credit, as defined in RCW 9A.82.020;
- (k) Advancing money for use in an extortionate extension of credit, as defined in RCW 9A.82.030;
- (l) Collection of an extortionate extension of credit, as defined in RCW 9A.82.040;
- (m) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- (n) Delivery or manufacture of controlled substances or possession with intent to deliver or manufacture controlled substances under chapter 69.50 RCW;
- (o) Trafficking in stolen property, as defined in RCW 9A.82.050;
- (p) Leading organized crime, as defined in RCW 9A.82.060;
- (q) Obstructing criminal investigations or prosecutions in violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130, 9A.76.070, or 9A.76.180;
- (r) Fraud in the purchase or sale of securities, as defined in RCW 21.20.010;
- (s) Promoting pornography, as defined in RCW 9.68.140;
- (t) Sexual exploitation of children, as defined in RCW 9.68A.040, 9.68A.050, and 9.68A.060;
- (u) Promoting prostitution, as defined in RCW 9A.88.070 and 9A.88.080;
- (v) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
- (w) Assault, as defined in RCW 9A.36.011 and 9A.36.021; ((or))
- (x) A pattern of equity skimming, as defined in RCW 61.34.020; or
- (y) Commercial telephone solicitation in violation of section 4(1) of this act.

(15) "Pattern of criminal profiteering activity" means engaging in at least three acts of criminal profiteering, one of which occurred after July 1, 1985, and the last of which occurred within five years, excluding any period of imprisonment, after the commission of the earliest act of criminal profiteering. In order to constitute a pattern, the three acts must have the same or similar intent, results, accomplices, principals, victims, or methods of commission, or be otherwise interrelated by distinguishing characteristics including a nexus to the same enterprise, and must not be isolated events. However, in any civil proceedings brought pursuant to RCW 9A.82.100 by any person other than the attorney general or county prosecuting attorney in which one or more acts of fraud in the purchase or sale of securities are asserted as acts of criminal profiteering activity, it is a condition to civil liability under RCW 9A.82.100 that the defendant has been convicted in a criminal proceeding of fraud in the purchase or sale of securities under RCW 21.20.400 or under the laws of another state or of the United States requiring the same elements of proof, but such conviction need not relate to

any act or acts asserted as acts of criminal profiteering activity in such civil action under RCW 9A.82.100.

(16) "Records" means any book, paper, writing, record, computer program, or other material.

(17) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(18) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in full or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(i) Chapter 67.16 RCW relating to horse racing;

(ii) Chapter 9.46 RCW relating to gambling;

(b) In a gambling activity in violation of federal law; or

(c) In connection with the business of lending money or a thing of value at a rate that is at least twice the permitted rate under the applicable state or federal law relating to usury.

(19)(a) "Beneficial interest" means:

(i) The interest of a person as a beneficiary under a trust established under Title 11 RCW in which the trustee for the trust holds legal or record title to real property;

(ii) The interest of a person as a beneficiary under any other trust arrangement under which a trustee holds legal or record title to real property for the benefit of the beneficiary; or

(iii) The interest of a person under any other form of express fiduciary arrangement under which one person holds legal or record title to real property for the benefit of the other person.

(b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in a general partnership or limited partnership.

(c) A beneficial interest shall be considered to be located where the real property owned by the trustee is located.

(20) "Real property" means any real property or interest in real property, including but not limited to a land sale contract, lease, or mortgage of real property.

(21) (a) "Trustee" means:

(i) A person acting as a trustee under a trust established under Title 11 RCW in which the trustee holds legal or record title to real property;

(ii) A person who holds legal or record title to real property in which another person has a beneficial interest; or

(iii) A successor trustee to a person who is a trustee under subsection(21)(a)(i) or (ii) of this section.

- (b) "Trustee" does not mean a person appointed or acting as:
 - (i) A personal representative under Title 11 RCW;
 - (ii) A trustee of any testamentary trust;
 - (iii) A trustee of any indenture of trust under which a bond is issued;

or

- (iv) A trustee under a deed of trust.

Sec. 18. Section 12, chapter 234, Laws of 1967 as amended by section 4, chapter 47, Laws of 1972 ex. sess. and RCW 63.14.154 are each amended to read as follows:

(1) In addition to any other rights he may have, the buyer shall have the right to cancel a retail installment transaction for other than the seller's breach:

(a) If the retail installment transaction was entered into by the buyer and solicited in person or by a commercial telephone solicitation as defined by this act by the seller or his representative at a place other than the seller's address, which may be his main or branch office, shown on the contract; and

(b) If the buyer returns goods received or makes them available to the seller as provided in clause (b) of subsection (2) of this section.

(c) By sending notice of such cancellation to the seller at his place of business as set forth in the contract or charge agreement by certified mail, return receipt requested, which shall be posted not later than midnight of the third day (excluding Sundays and holidays) following the date the buyer signs the contract or charge agreement.

(2) In the event of cancellation pursuant to this section:

(a) The seller shall, without request, refund to the buyer within ten days after such cancellation all deposits, including any down payment, made under the contract or charge agreement and shall return all goods traded in to the seller on account or in contemplation of the contract less any reasonable costs actually incurred in making ready for sale the goods so traded in;

(b) The seller shall be entitled to reclaim and the buyer shall return or make available to the seller at the place of delivery in its original condition any goods received by the buyer under the contract or charge agreement;

(c) The buyer shall incur no additional liability for such cancellation.

NEW SECTION. Sec. 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 20. The effective date of this act shall be January 1, 1990.

NEW SECTION. Sec. 21. Sections 1 through 16 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 22. The attorney general shall prepare a notice to be sent to all businesses in industries known to engage in commercial telephone soliciting informing them of the provisions of this act. The notice shall be sent by the department of revenue and shall be included in a mailing of business tax return forms prior to the effective date of sections 1 through 16 of this act.

Passed the Senate March 2, 1989.

Passed the House March 31, 1989.

Approved by the Governor April 18, 1989.

Filed in Office of Secretary of State April 18, 1989.

CHAPTER 21

[House Bill No. 1010]

LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS—DISABILITY LEAVE

AN ACT Relating to disability leave supplement for law enforcement officers and fire fighters; amending RCW 41.04.510; repealing section 9, chapter 462, Laws of 1985 (uncodified); and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 462, Laws of 1985 and RCW 41.04.510 are each amended to read as follows:

The disability leave supplement shall be paid as follows:

(1) The disability leave supplement shall begin on the sixth ~~((day of absence from work caused by))~~ calendar day from the date of the injury or illness which entitles the employee to benefits under RCW 51.32.090. For the purposes of this section, the day of injury shall constitute the first calendar day.

(2) One-half of the amount of the supplement as defined in RCW 41.04.505 shall be charged against the accrued paid leave of the employee. In computing such charge, the employer shall convert accumulated days, or other time units as the case may be, to a money equivalent based on the base monthly salary of the employee at the time of the injury or illness. "Base monthly salary" for the purposes of this section means the amount earned by the employee before any voluntary or involuntary payroll deductions, and not including overtime pay.

(3) One-half of the amount of the supplement as defined in RCW 41.04.505 shall be paid by the employer.

If an employee has no accrued paid leave at the time of an injury or illness which entitles him to benefits under RCW 51.32.090, or if accrued paid leave is exhausted during the period of disability, the employee shall receive only that portion of the disability leave supplement prescribed by subsection (3) of this section.