

AMENDED IN SENATE JULY 2, 2001

AMENDED IN ASSEMBLY APRIL 19, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 870

**Introduced by Assembly Member Wesson
(Coauthors: Assembly Members Calderon, Maddox, Nation,
Pescetti, and Reyes)**

February 22, 2001

An act to add Section 2875.5 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 870, as amended, Wesson. Public utilities: automatic calling equipment.

Existing

(1) *Existing* law authorizes the Public Utilities Commission to control and regulate the use of automatic dialing-announcing devices and specifies the hours during which the devices may not be operated.

This bill would prohibit, on and after July 1, 2002, any person operating specified automatic calling equipment from making a telephone connection for which no person, acting as an agent or telemarketer, or prerecorded message, is available for the person called, as prescribed. *The bill would require the commission to establish, before July 1, 2002, an acceptable error rate for telephone connections made in violation of that prohibition. Because a violation of a requirement of the commission is a crime, this bill, by requiring the commission to establish the error rate, would change the definition of a crime, thereby*

imposing a state-mandated local program. The bill would authorize the commission to require any person operating that specified equipment to maintain prescribed records for submission to the commission.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—The Legislature finds and declares all of the~~
2 ~~following:~~

3 ~~(a) The use of the telephone to market goods and services to the~~
4 ~~home and other businesses is now pervasive due to the increased~~
5 ~~use of cost effective telemarketing techniques.~~

6 ~~(b) Unrestricted telemarketing, however, can be an intrusive~~
7 ~~invasion of privacy, and, when an emergency or medical assistance~~
8 ~~telephone line is seized, a risk to public safety.~~

9 ~~(c) Many consumers are outraged over the proliferation of~~
10 ~~intrusive nuisance calls to their homes from telemarketers,~~
11 ~~including, but not limited to, abandoned calls.~~

12 ~~(d) It is the intent of the Legislature in enacting this act to~~
13 ~~balance individual privacy rights and public safety concerns with~~
14 ~~commercial free speech rights.~~

15 ~~SEC. 2.~~

16 ~~SECTION 1.~~ Section 2875.5 is added to the Public Utilities
17 Code, to read:

18 2875.5. (a) On and after July 1, 2002, no person operating
19 any automatic equipment that incorporates a storage capability of
20 telephone numbers to be called or a random or sequential number
21 generator capable of producing numbers to be called may make a
22 telephone connection for which no person, acting as an agent or
23 telemarketer, or prerecorded message is available for the person
24 called.

25 (b) Notwithstanding subdivision (a), the commission ~~may~~ *shall*
26 establish an acceptable error rate for telephone connections made

1 in violation of subdivision (a). The commission shall determine
2 the error rate, if any, before July 1, 2002.

3 (c) The commission may require any person operating
4 ~~automatic dialing announcing devices to maintain records of~~
5 *equipment as described in subdivision (a) to maintain records of*
6 telephone connections made for which no person, acting as an
7 agent or telemarketer, or prerecorded message, as set forth in
8 subdivision (d) of Section 2872, is available for the person called.
9 The commission may require copies of those records to be
10 submitted to the commission.

11 *SEC. 2. No reimbursement is required by this act pursuant to*
12 *Section 6 of Article XIII B of the California Constitution because*
13 *the only costs that may be incurred by a local agency or school*
14 *district will be incurred because this act creates a new crime or*
15 *infraction, eliminates a crime or infraction, or changes the penalty*
16 *for a crime or infraction, within the meaning of Section 17556 of*
17 *the Government Code, or changes the definition of a crime within*
18 *the meaning of Section 6 of Article XIII B of the California*
19 *Constitution.*

