

AMENDED IN SENATE AUGUST 30, 2000
AMENDED IN SENATE AUGUST 25, 2000
AMENDED IN SENATE JULY 5, 2000
AMENDED IN SENATE JUNE 26, 2000
AMENDED IN ASSEMBLY MAY 22, 2000
AMENDED IN ASSEMBLY MAY 10, 2000
AMENDED IN ASSEMBLY APRIL 5, 2000
AMENDED IN ASSEMBLY MARCH 29, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2721

Introduced by Assembly Member Wesson
(Principal coauthor: Assembly Member Longville)
(Coauthor: Assembly Members Alquist and Havice)
(Coauthor: Senator Murray)

February 25, 2000

An act to amend Sections 2872 and 2874 of, and to add Section 2875.5 to, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2721, as amended, Wesson. Automatic dialing-announcing devices.

(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. Existing law also provides for exemptions from regulation and time-of-use limitations in various situations, including the contacting of an established business associate, customer or other person having an established relationship with the person using the automatic dialing-announcement device.

This bill would expand the exemptions, as prescribed. The bill would also state that the requirement that an automatic dialing announcement message be preceded by an unrecorded natural voice message does not apply to specified situations.

The bill would prohibit a prerecorded message from being left on an answering machine, voicemail, or other message recording device. The bill would prohibit, on and after July 1, 2001, 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 authorize the commission to require any person operating that specified equipment to maintain prescribed records for submission to the commission.

(2) The bill would make related legislative findings and declarations.

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

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

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

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

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

1 (c) Many consumers are outraged over the
2 proliferation of intrusive nuisance calls to their homes
3 from telemarketers, including, but not limited to,
4 prerecorded messages and abandoned calls.

5 (d) It is the intent of the Legislature in enacting this
6 act to balance individual privacy rights and public safety
7 concerns with commercial free speech rights.

8 SEC. 2. Section 2872 of the Public Utilities Code is
9 amended to read:

10 2872. (a) The connection of automatic
11 dialing-announcing devices to a telephone line is subject
12 to this article and to the jurisdiction, control, and
13 regulation of the commission.

14 (b) No person shall operate an automatic
15 dialing-announcing device except in accordance with this
16 article. The use of such a device by any person, either
17 individually or acting as an officer, agent, or employee of
18 a person or corporation operating automatic
19 dialing-announcing devices, is subject to this article.

20 (c) No person shall operate an automatic
21 dialing-announcing device in this state to place a call that
22 is received by a telephone in this state during the hours
23 between 9 p.m. and 9 a.m. California time.

24 (d) This article does not prohibit the use of an
25 automatic dialing-announcing device for any of the
26 following purposes:

27 (1) A school for purposes of contacting parents or
28 guardians of pupils regarding attendance.

29 (2) An exempt organization under the Bank and
30 Corporation Tax Law (Part 11 (commencing with
31 Section 23001) of Division 2 of the Revenue and Taxation
32 Code) for purposes of contacting its members.

33 (3) A privately owned or publicly owned cable
34 television system for purposes of contacting customers or
35 subscribers regarding the previously arranged
36 installation of facilities on the premises of the customer or
37 subscriber.

38 (4) A privately owned or publicly owned public utility
39 or its affiliate for purposes of contacting customers or
40 subscribers regarding the previously arranged

1 installation or ongoing operation of facilities or services
2 on the premises of the customer or subscriber or for
3 purposes of contacting employees for emergency actions
4 or repairs required for public safety or to restore services.

5 (5) A petroleum refinery, chemical processing plant,
6 or nuclear powerplant for purposes of advising residents,
7 public service agencies, and the news media in its vicinity
8 of an actual or potential life-threatening emergency.

9 (6) A law enforcement agency, fire protection agency,
10 public health agency, public environmental health
11 agency, city or county emergency services planning
12 agency, or any private for-profit agency operating under
13 contract with, and at the direction of, one or more of these
14 agencies, placing calls through automatic
15 dialing-announcing devices, if those devices are used for
16 any of the following purposes:

17 (A) Providing public service information relating to
18 public safety.

19 (B) Providing information concerning police or fire
20 emergencies.

21 (C) Providing warnings of impending or threatened
22 emergencies.

23 (7) A call generated at the request of the recipient.

24 (8) A call for the purpose of collecting an existing
25 obligation.

26 (9) *A call that is not made for a commercial purpose.*

27 (e) This article does not apply to any automatic
28 dialing-announcing device that is not used to randomly or
29 sequentially dial telephone numbers, but that is used to
30 transmit a message to an established business associate,
31 customer, or other person having an established
32 relationship with the person using the automatic
33 dialing-announcing device to transmit the message.

34 (f) The commission may determine any question of
35 fact arising under this section.

36 SEC. 3. Section 2874 of the Public Utilities Code is
37 amended to read:

38 2874. (a) Except as provided in subdivision (d) or
39 (e) of Section 2872, if telephone calls are placed through
40 the use of an automatic dialing-announcing device, the

1 device may be operated only after an unrecorded, natural
2 voice announcement has been made to the person called
3 by the person calling. The announcement shall do all of
4 the following:

5 (1) State the nature of the call and the name, address,
6 and telephone number of the business or organization
7 being represented, if any.

8 (2) Inquire as to whether the person called consents to
9 hear the prerecorded message of the person calling.

10 (b) The calling person described in subdivision (a)
11 shall disconnect the automatic dialing-announcing device
12 from the telephone line upon the termination of the call
13 by either the person calling or the person called.

14 (c) It does not constitute consent of the person called
15 to hear the prerecorded message of the calling person if
16 the calling person connects to an answering machine,
17 voicemail, or other message recording device, and the
18 prerecorded message may not be left on the answering
19 machine, voicemail, or other message recording device.

20 SEC. 4. Section 2875.5 is added to the Public Utilities
21 Code, to read:

22 2875.5. (a) On and after July 1, 2001, no person
23 operating any automatic equipment that incorporates a
24 storage capability of telephone numbers to be called or a
25 random or sequential number generator capable of
26 producing numbers to be called may make a telephone
27 connection for which no person, acting as an agent or
28 telemarketer, or prerecorded message, as set forth in
29 subdivision (d) of Section 2872, is available for the person
30 called.

31 (b) Notwithstanding subdivision (a), the commission
32 may establish an acceptable error rate for telephone
33 connections made in violation of subdivision (a).

34 (c) The commission may require any person operating
35 automatic dialing announcing devices to maintain
36 records of telephone connections made for which no
37 person, acting as an agent or telemarketer, or
38 prerecorded message, as set forth in subdivision (d) of
39 Section 2872, is available for the person called. The

1 commission may require copies of those records to be
2 submitted to the commission.

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