

**1999 HOUSE FINANCE AND TAXATION**

**HB 1395**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1395

House Finance and Taxation Committee

Conference Committee

Hearing Date February 1, 1999

Tape Number	Side A	Side B	Meter #
1	x		0.5
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. BELTER Opened the hearing.

REP. MARY EKSTROM, DIST. 11, FARGO, Introduced the bill. See written testimony.

Also submitted testimony from Brian Glaeske.

REP. GROSZ A good share of the calls come from out of state, how are we going to take care of that problem?

REP. EKSTROM The bill provides for the solicitor to give you the information of where they got your name, what national list, so that you can write directly and tell them, take my name off the list.

REP. GROSZ If they don't tell you, what do you do then. To me, we are just extending a call you didn't want in the first place, I think it is just as easy to say I am not interested and hang up.

REP. EKSTROM This particularly does not say, an agency will go after these individuals unless there were complaints lodged about them. This simply gives the consumer the right to get that information and ask them to take the name off of that list. Right now, they don't have to tell you which list they got your name from.

REP. HERBEL What obligation do they have to take your name off of that list, by law they have to do it?

REP. EKSTROM This says they will have to tell you. There is a federal law that says they have to take your name off the list if you request it.

REP. RENNERFELDT Referred to page 5, line 20, what commission are they referring to?

REP. EKSTROM This would be the state commission on the protest, if you request your name be taken off and they don't do it, you can report it to the state.

JACK MCDONALD, ON BEHALF OF DEHART & DARR ASSOCIATES, INC. Testified in opposition of the bill. See written testimony. He went on to say, it would really put a crimp in the small towns who employ people to do telemarketing.

REP. KROEBER How does the federal law where they are required to remove your name when asked to do so?

JACK MCDONALD My understanding is, it works very well. The federal law does mandate it, and the telemarketing association, itself, has voluntary compliance, and are very strict on that.

REP. WINRICH It would seem if I asked how they got my name and they mentioned Fortune Magazine, Forbes, Stock Investors, etc., as the description is given in your testimony, I would find that an adequate description of how my name got on the list, do you think that is not the case?

JACK MCDONALD It is a question of who you are asking and what do they know. At this stage, the people I represent are in Virginia, so when they do some telemarketing, they will do some out of Virginia, but they will also hire telemarketers around the country in different areas. At this stage, they hire someone in Beulah to do some telemarketing for several groups. They just send them a list, they do not every single phone caller in every single part of the country where these lists come from. A telemarketer in Beulah or Grand Forks, may not know where the list came from.

REP. WINRICH The phone solicitors are given a little bit more than just phone numbers. Anyone who has ever gotten a call from these telemarketers knows that they also work from a very detailed script, it is usually very difficult to dislodge them from that script and ask them some questions. Why can't the source of the list simply be part of that script?

JACK MCDONALD I don't know if you can prepare the individual script and give the sources of the phone numbers with any degree of accuracy.

REP. FROELICH You are saying to us, that these telemarketers don't know who they are working for?

JACK MCDONALD I didn't say they don't know who they are working for, I said they are hired by a company to do telemarketing, such as DeHart and Darr to do telemarketing for the Wall Street Journal. But what you are asking now, is calling the Wall Street Journal and find out how they developed their particular list.

REP. KROEBER Does DeHart and Darr have a telemarketing firm in North Dakota?

JACK MCDONALD They hire different telemarketing firms, but they don't have a business in North Dakota.

REP. SCHMIDT You testified that there will be more telemarketing firms placed in North Dakota, we are getting complaints from our constituents, I had a lady who said she had 80 calls in December on her phone. If we have more telemarketers, do you see this as a big problem down the road?

JACK MCDONALD I can't speculate whether this will be more of a problem or not.

MARILYN FOSS, MCI WORLDCOM Testified in opposition of the bill. MCI does a large portion of its business through telemarketing. The reality is they acquire names from a variety of sources, there is not a single source. It would be very unlikely that the person actually making the call would know the source of the number of which they are calling. The bill does not actually provide any remedy for the consumers. It suggests that innocent people who are working for seven or eight dollars per hour, to considerable risk and jeopardy by virtue of the administrative penalty.

REP. BELTER Asked someone from the Public Service Commission, Would you be able to manage this within your budget?

ILLONA JEFFCOAT-SACCO, PUBLIC SERVICE COMMISSION Answered, we don't know how many we will have so we couldn't estimate now that it would be anything out of standard that we have now. It would cover more potential entities, in that sense, the potential field could be larger than it is now.

REP. WINRICH The section that provides for the penalty, it is suggested that that penalty could fall on a minimum wage worker making the calls, it seems to me that it gives the commission discretion to identify the responsible person including the telemarketing company or something, do you agree with that?

ILLONA JEFFCOAT-SACCO I don't read language like that as discretionary, with any enforcement agency. It would mean that either of those entities could be liable, and I don't know that the agency would have discretion to choose.

REP. WARNER If we are talking about going through a series of lists and then creating a new list, is there anything in current law which would require a telemarketer to just leave the names on the current list?

ILLONA JEFFCOAT-SACCO I don't have the answer to that.

JACK MCDONALD Stated that federal law states you can be removed from any list whatsoever. So I think the answer would be, Yes. No matter what state the list is in, you can be removed from it.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 2-1-99, Tape #2, Side A, Meter #7.3

REP. GROSZ Made a motion for a DO NOT PASS.

REP. GRANDE Second the motion. MOTION CARRIED.

7 Yes 5 No 3 Absent

REP. GROSZ Was given the floor assignment.

FISCAL NOTE

(Return original and 13 copies)

Bill/Resolution No.: HB 1395

Amendment to:

Requested by Legislative Council

Date of Request: 1-20-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative: *This bill allows the Public Service Commission to pursue a telephone solicitor if the solicitor does not properly identify the source from which the solicitor received a consumer's telephone number. The Public Service Commission foresees that it will be able to perform these duties with its present staff and budget and does not foresee any change to the general fund expenses. The new general fund revenues, if any, are difficult to estimate except that they are not expected to exceed \$10,000 per biennium.*

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	N/A	N/A	< 10,000	N/A	< 10,000	N/A
Expenditures:	N/A	N/A	N/A	N/A	N/A	N/A

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: N/A
- b. For the 1999-2001 biennium: N/A
- c. For the 2001-03 biennium: N/A

4. County, City, and School District fiscal effect in dollar amounts: *No Effect*

Counties	1997-99 Biennium		Counties	1999-2001 Biennium		Counties	2001-03 Biennium	
	Cities	School Districts		Cities	School Districts		Cities	School Districts

If additional space is needed, attach a supplemental sheet.

Date Prepared: *January 21, 1999*

Signed:   
 Typed Name: Jon H. Mielke, Executive Secretary

Department: Public Service Commission

Phone Number: 328-2400

Please type or use black pen to complete

Date 2-1-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1395

House HOUSE FINANCE & TAX Committee

Subcommittee on \_\_\_\_\_

Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Rep. Grosz Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH		✓
RENNERFELDT	✓				
CLARK		✓			
FROELICH		✓			
GRANDE	✓				
GROSZ	✓				
HERBEL	A				
KROEBER		✓			
MICKELSON	✓				
NICHOLAS	A				
RENNER	✓				
SCHMIDT	A				
WARNER		✓			
WIKENHEISER	✓				

Total 7 5  
(Yes) (No)

Absent 3

Floor Assignment Rep. Grosz

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS



REPORT OF STANDING COMMITTEE (410)  
February 1, 1999 3:22 p.m.

Module No: HR-20-1619  
Carrier: Grosz  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1395: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO NOT PASS** (7 YEAS, 5 NAYS, 3 ABSENT AND NOT VOTING). HB 1395 was placed on the Eleventh order on the calendar.

**1999 TESTIMONY**  
**HB 1395**

HB 1395 RELATING TO TELEMARKETING  
TESTIMONY FOR THE FINANCE AND TAXATION COMMITTEE

TESTIMONY BY: MARY EKSTROM, ND HOUSE/DISTRICT 11  
February 1, 1999

Good Morning, Chairman Belter and members of the Finance and Taxation Committee.

For the record, my name is Mary Ekstrom; I represent District 11 in south central Fargo. I am here to present HB 1395 which provides an additional definition to the code and gives the citizens of North Dakota information on the distribution of their names and phone numbers.

It has happened to all of us. You finally sit down to dinner after a long hard day and the phone rings. A persistent salesperson launches into a spiel to sell you: long distance phone service, long term care insurance, stock or seamless siding. If you are feeling polite, you allow the operator to take some of your precious time and let them down gently. After the third or fourth call of the evening, you stop being so polite.

This bill defines what constitutes a consumer telephone call. Simply put it is an unsolicited phone call from someone trying to sell you something. The bill says that these solicitors have to tell you where they got your name and phone number. This allows consumers to get relief from the harassment of telephone solicitation. The sale of consumer information is a huge business and is beginning to put together databases that invade our privacy.

Your home phone is primarily a device to communicate wanted or needed information. I doubt that Alexander Graham Bell ever envisioned that his invention would be used in this manner.

I would be happy to try and answer any of your questions.

Thank you.



Dear Members of the Finance and Taxation Committee:

I am writing this letter as testimony on HB 1395, which concerns telemarketing.

I am sure that most of us have had the peace and tranquility of our evening family and relaxation time, interrupted by the telephone. Many people when hearing the telephone are expectant of a call from a good friend, a remote family member or even grandmother.

When the phone is answered, these hopes of conversing with a loved one are dashed by stranger. This stranger calling us is a pitch person for a contract marketer. The person is so good at spouting the sales pitch for the product being sold that one can not politely find any opportunity to interrupt.

While one can ask to removed from the this telemarketers list of names, it does no good, because this company simply bought a list of names from another company that specialized in providing names for the purpose of marketing efforts.

Thus while your name is removed from one marketers list, it is still being sold to dozens, if not hundreds, of other marketing firms.

HB 1395 will require telemarketers to provide information to the residents of North Dakota regarding the actual source of the your name and demographic information. This will allow people the ability to remove their names from the source of the information, thereby freeing themselves of annoying, sometimes harassing, phone calls.

Sincerely,  
Brian Glaeske  
1539 14th St. S.  
Fargo, ND 58103-4001  
(701) 298-9503

February 1, 1999

**HOUSE FINANCE & TAXATION COMMITTEE**  
**HB 1395**

**CHAIRMAN BELTER AND COMMITTEE MEMBERS:**

My name is Jack McDonald. I'm appearing today on behalf of DeHart and Darr Associates, Inc. We **OPPOSE HB 1395** and ask that you defeat the bill.

Our clients do very sophisticated telemarketing. For example, the Wall Street Journal will spend a great deal of time and effort compiling a list from Fortune magazine, Forbes, stock investors, etc., so that they have a list of people they feel are quite likely to be interested in their newspaper.

At this stage, once the list is finally compiled, no one is really sure where an individual number came from, and surely the callers are not. This bill is simply not practical and we respectfully request a do not pass.

If you have any questions, I'll be happy to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

From the desk of Susan E. Wefald  
North Dakota Public Service Commissioner  
Phone: 701-328-4559 Fax: 701-328-2410  
e-mail: msmail.sew@oracle.psc.state.nd.us

regarding HB 1395

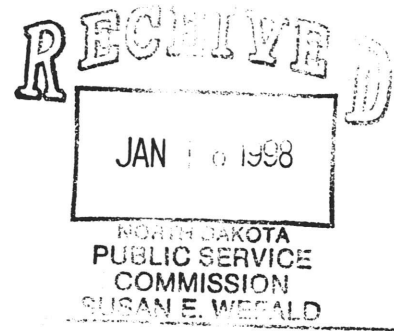
House Finance & Taxation Committee

I was asked by Betty  
Hedman, who wrote the attached  
letter, to submit this to you  
so you consider H.B. 1395.

Susan Wefald

January 15, 1999

Susan Wefald  
State Capitol  
600 East Blvd. Ave.  
Bismarck, ND 58505-0360



Dear Ms. Wefald:

I am writing to urge you to help create a solution to a very serious problem in our state and in our country. I am talking about the deluge of HARASSING HANG-UP PHONE CALLS that many of us are plagued with from telemarketers.

From one recording through a self-started trace, I learned that even though calls from telemarketers are not welcomed by many people, "it is not illegal for telemarketers to call people." Let me assure you, I agree with this statement. However, I understand that it is a common practice for telemarketers, when calling, to have their computer dial several phone numbers at the same time (I've been told 5, 6, and 10 numbers at once). When someone at one of the numbers answers the phone to talk to the telemarketer, the computer hangs up on all the other numbers. In my opinion, hang-up phone calls are harassment. The last I knew, harassment is NOT considered to be legal in any way, shape, or form!! Therefore, all of these hundreds and thousands of hang-up phone calls generated by telemarketers sounds illegal to me.

I am enclosing a two-page list of hang-up phone calls I have received from February through September 1998. This is mostly calls I received while I was at home, and I am not at home a lot of the time as I am a pastor with four churches, which keeps me on the go much of the time.

If I need to get petitions signed in order to instigate some type of legislation that specifically bans telemarketers from this practice of deliberately hanging up on people, I am willing to do so. I look forward to hearing from you soon to know what possible action might be taken to solve this problem.

Yours sincerely,

Betty J. Stedman

*P.O. Box 188*

*Edmond ND 58332-0188*

Below you will find a list of the HANG-UP phone calls I have received from February through September 1998. I had a Caller ID at the time these calls were recorded. All of the calls showed "Unknown Caller" and "Unknown Number" on the Caller ID, unless otherwise noted in the "DETAIL" column. Please note that most of these calls were received while I was at home, which I am not very much as I am the pastor of four churches and am on the road a lot. (I shudder to imagine how long this list would be if I were home all the time!!)

DATE (1998)	TIME	DETAILS
2-16	9:18 am	
2-16 (17 or 18)	2:56 pm	3 rings
2-17 (or 18)	8:53 am	2 rings
2-19	8:53 am	1 1/2 rings
2-21	1:21 pm	
2-25	2:29 pm	2 rings, twice
2-26	1:58 pm	2 rings
2-27	8:55 am	2 rings, four times
2-27	10:59 am	612-430-0249, high-pitched beeping
2-27	11:02 am	612-430-0249
3-06	2:10 am	612-430-0249
3-06	2:20 am	612-430-0249
3-09	3:15 pm	3 rings
3-11	11:24 am	3 rings, hesitate, hang up
3-12	10:00 am	1 ring
3-26	11:41 am	showed "Private Number", 2 rings, twice
3-27	1:41 pm	"Private Number"
3-28	3:33 pm	twice
4-01	12:02 pm	twice
4-02	2:02 pm	"Private Number", twice
4-02	8:24 pm	"Private Number", twice
4-04	1:32 pm	"Private Number", twice
4-05	11:33 am	"Private Number", once



4-07	1:15 pm	twice
4-14	12:02 pm (last time)	nine times, from Caller ID (I wasn't home for these)
4-15	11:33 am	four times, from Caller ID (I wasn't home for these)
4-16	9:05 am	2 rings, hang up (Note this and next call are 2 minutes apart)
4-16	9:07 am	3 rings; I did not talk, just listened; someone there; I said, "Whoever you are, you better just knock it off!"; hesitation; I think they hung up; then I hung up.
4-17	12:18 pm	twice
5-04	9:53 am	2 rings, twice
7-16	8:35 am	2 rings
7-16	6:38 pm	2 rings, NO hang up, but also no talking
8-22	11:22 am	2 rings, 10 second hesitation, hang up
9-08	1:23 pm	2 rings, hesitate, hang up
9-16	6:36 pm	1 ring
9-16	8:37 pm	2 rings
9-17	8:35 am	1 ring, 3-5 second hesitation, hang up
9-24	7:52 pm	2 rings, brief hesitation, hang up
9-24	8:53 pm	3 rings, longer (3-4 seconds) hesitation, hang up
9-26	9:59 am	3 rings
9-26	12:10 pm	3 rings
9-28	11:20 am	2 rings, 3-5 second hesitation, hang up
9-28	3:36 pm	3 rings, usual greeting*; hesitaiton; I said, "Stay on the line!", hang up--probably on "line"
9-28	5:38 pm	3 rings, usual greeting*: hesitation; I said, "You better knock this off!"; hang up--on "knock" or "this"
9-29	5:22 pm	2 rings, hesitation, twice

\*My usual greeting (the way I answer the phone -- almost always) is "Esmond-Minnewaukan Lutheran Parish, this is Pastor Betty."