

Indiana Amends Telemarketing Law, Bringing New Disclosure Requirements and DNC Vicarious Liability

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Last month, the Indiana Governor signed into law [House Bill No. 1444](#), which amends Indiana's "do not call" statute and extends liability beyond the telephone solicitor, to individuals or entities that "directly or indirectly control" the telephone solicitor. The amendments take effect July 1, 2017 and affect entities that target Indiana consumers via telephone solicitation, regardless of the location of the entity.

Additional Disclosure Requirements. Currently, telephone solicitors must provide Indiana consumers with two types of information: (1) the solicitor's first and last name, and (2) the name of the business on whose behalf the solicitor is calling. Under the amended law, solicitors must also immediately disclose their employer's name or the entity with which they have contracted.

Vicarious Liability. The amendment also extends vicarious liability to individuals and entities that have direct or indirect control of the telephone solicitor, regardless of where such persons or entities are located or domiciled. Civil penalties, however, will not apply if the individual or entity can establish that they did not know and, with reasonable care, could not have known of the violation.

House Bill No. 1444 also amends the definition of "caller" under Indiana's Regulation of Automatic Dialing Machines, to include officers of a corporation or LLC that are involved in or have notice of prohibited conduct and fail to take reasonable steps to prevent it.

Enforcement and Penalties. Failure to comply with Indiana's telemarketing law is a deceptive act, for which the Indiana Attorney General may seek a \$10,000 civil penalty for the first violation, and \$25,000 for each violation thereafter. By expanding liability to principals with direct or indirect control, the Indiana Attorney General now has a wider net to cast in prosecutions for "do not call" violations.

For businesses placing telemarketing calls to Indiana consumers, it would be wise to review current calling practices and make appropriate adjustments as necessary, including with respect to managing risk associated with third parties who arguably may be calling on the business's behalf.