

IC 24-5-19

Chapter 19. Deceptive Commercial Solicitation

IC 24-5-19-1

Application of chapter

Sec. 1. This chapter applies to a person that sends, delivers, or transmits by mail, private delivery, facsimile transmission, or electronic mail a solicitation offering goods or services for sale, lease, or rent if the person:

- (1) creates, prepares, packages, or handles the solicitation in Indiana;
- (2) sends the solicitation from a location in Indiana;
- (3) sends the solicitation from outside Indiana to a location or person in Indiana;
- (4) uses a post office box, mailing service, or facsimile transmission service in Indiana;
- (5) remails, forwards, redirects, or retransmits the solicitation from Indiana to a location in Indiana or outside Indiana; or
- (6) directly or indirectly uses another person in Indiana to create, prepare, package, handle, send, deliver, transmit, remail, forward, redirect, or retransmit a solicitation.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-2

"Person" defined

Sec. 2. As used in this chapter, "person" has the meaning set forth in IC 24-5-0.5-2.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-3

Solicitation of payment by bill, invoice, or statement of account due

Sec. 3. A person may not, with intent to deceive, knowingly or intentionally send, deliver, or transmit a bill, an invoice, or a statement of account due, or a writing that could reasonably be interpreted as a bill, an invoice, or a statement of account due, to solicit payment of money by another person for goods not yet ordered or for services not yet performed and not yet ordered.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-4

Solicitation of payment by compliance notice, legal notice, or other notice of governmental entity

Sec. 4. A person that is not a governmental entity may not knowingly or intentionally send, deliver, or transmit a writing that purports to be a compliance notice, legal notice, or other notice of a governmental entity, or a writing that could reasonably be interpreted to be a compliance notice, legal notice, or other notice of a governmental entity, to solicit payment of money by another person

for goods not yet ordered or for services not yet performed and not yet ordered.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-5

Solicitation when goods not shipped or services not performed

Sec. 5. A person may not knowingly or intentionally send, deliver, or transmit a solicitation for goods if the solicitation indicates that goods have been shipped to or services performed for the recipient and the goods have not been shipped or the services have not been performed.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-6

Compliance with other provisions of law

Sec. 6. The provisions of this chapter are not exclusive and do not relieve a person of compliance with other applicable provisions of law.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-7

Voidable contracts

Sec. 7. A contract entered into in reliance on a solicitation that does not comply with this chapter is voidable by the party that relied on the solicitation.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-8

Waiver

Sec. 8. A waiver of a person's rights under all or part of this chapter is void and unenforceable.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-9

Power to bring action, seek injunction, or submit matter to attorney general

Sec. 9. A person that receives a solicitation that violates the provisions of this chapter may:

- (1) bring an action in the circuit or superior court of the county of the person's residence for recovery of the person's actual damages resulting from the violation, including court costs and attorney's fees;
- (2) petition the circuit or superior court of the person's county of residence to enjoin the sender of the solicitation from further violation; and
- (3) whether or not the recipient of the solicitation is actually deceived, submit the matter to the attorney general for action under IC 24-5-0.5.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-10

Violation of chapter; Class A misdemeanor

Sec. 10. A person that violates the provisions of this chapter commits a Class A misdemeanor.

As added by P.L.176-1997, SEC.1.

IC 24-5-19-11

Penalties

Sec. 11. (a) A person that violates this chapter is subject to the penalties set forth in IC 24-5-0.5.

(b) The penalties set forth in IC 24-5-0.5 apply whether or not a recipient of the person's solicitation is actually deceived.

As added by P.L.176-1997, SEC.1.