

R152. Commerce, Consumer Protection.

R152-26. Telephone Fraud Prevention Act Rule.

R152-26-1. Authority.

These rules are promulgated pursuant to Section 13-2-5 to administer the Utah Telephone Fraud Prevention Act.

R152-26-2. Scope and Applicability.

These rules shall have the same scope and applicability as Title 13, Chapter 26.

R152-26-3. Definitions.

The following terms, in addition to the definitions appearing in Section 13-26-2, shall be used in construing this rule.

- (1) "Director" means the director of the Utah Department of Commerce, Division of Consumer Protection.
- (2) "Division" means the Utah Department of Commerce, Division of Consumer Protection.
- (3) "Registrant" means any person who has submitted an application for registration to the division pursuant to Section 13-26-3.
- (4) "Durable goods" means goods likely to be used for three years or more.

R152-26-4. Denial, Revocation, or Suspension of Registration.

- (1) The director may deny an application for registration for the following reasons:
 - (a) the registrant has committed any of the violations of law set forth in Section 13-26-11; or
 - (b) the registrant has failed to comply with all of the requirements of Section 13-26-3 and these rules;
- (2) The director may suspend or revoke a registration for any violation of Title 13, Chapter 26 by the registrant.

R152-26-5. Registration.

(1) A registrant shall submit an application for registration only on the form authorized by the division. An application may be summarily denied if:

- (a) it is submitted on a form not authorized by the division;
- (b) it is submitted on the authorized form but it is not legible; or
- (c) it is submitted on the authorized form but it is incomplete in some material respect.
- (2) The application shall include the following:
 - (a) the registrant's name, address, telephone number and facsimile number, if any;
 - (b) the names, addresses, birth dates and places, and social security numbers of all registrant's officers, directors, members, principals and/or key employees;
 - (c) the registrant's previous business addresses during the previous ten years;
 - (d) other names, if any, that the registrant does business under;
 - (e) identification of all licenses or permits currently held by the registrant and any that have been revoked or suspended;
 - (f) disclosure of any judgment, injunctive order or conviction of any of registrant's officers, directors, members, principals, or key-employees of racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion of property, misappropriation of property or other similar crimes;
 - (g) the name and address of the registrant's registered agent;
 - (h) the location where telephone numbers are to be dialed; and
 - (i) a description of the goods or services that are to be the subject of the telephone solicitation.
- (3) Each registrant shall submit copies of the following documents with their application:
 - (a) All scripts to be used in the telephone solicitation;
 - (b) Articles of incorporation or other organizational documentation showing registrant's current legal status.
- (4) At the option of the director, the processing of an application by the division's staff may be delayed to give the registrant an opportunity to cure technical defects in his application.
- (5) If information in an application for registration or for renewal of registration as a telephone soliciting business materially changes or becomes incorrect or incomplete, the applicant shall, within 30 days after the information changes or becomes incorrect or incomplete, submit the correct information on the corresponding page of the registration application with a cover page or letter clarifying that the submission is correcting information to an existing registration.
 - (a) Material changes to the legal status of the registrant's organization or ownership of the telephone soliciting business may not be submitted as an amendment to an existing registration. An initial application for registration must be completed and submitted for approval by the Division.
 - (b) The director may suspend or revoke a registration if material changes or corrections to the registration are not submitted as required by this rule.

R152-26-7. Bonds, Irrevocable Letters of Credit and Certificates of Deposit.

- (1) At the option of the registrant, a bond, irrevocable letter of credit or certificate of deposit may be tendered to the division to fulfill the requirements of Section 13-26-3(3)(a).
- (2) Whichever type of instrument is tendered by a registrant, payment is immediately due and owing to the division when:
 - (a) the director delivers a signed writing to the registrant's surety or issuing financial institution demanding payment of a specified sum of money; and

(b) the registrant's liability in the amount specified is demonstrated by a certified copy of the division's final order or the civil judgment of any Utah or federal court, which copy shall be attached to the director's demand for payment.

(3) The division may make a demand on a bond, irrevocable letter of credit or certificate of deposit either in its own right or as the representative of consumers who have been injured by the registrant's violation of Title 13, Chapter 26.

(4) Instruments tendered to the division under Section 13-26-3(3)(a) may be executed in any form that the director deems commercially and legally reasonable and consistent with this rule. The division's acceptance of a non-conforming instrument does not result in a waiver of the requirements of this rule.

R152-26-8. Isolated Transaction Exemption.

For purposes of Section 13-26-4(2)(i), an "isolated transaction" means no more than two occurrences in any twelve month period.

R152-26-9. Right of Rescission.

(1) For purposes of Section 13-26-5(2), a written notification of cancellation is effective the earlier of:

(a) when the notice is actually received by the seller; or

(b) when the notice is placed in the custody of the U.S. Postal Service, provided the postage is prepaid and the letter is properly addressed to the seller.

(2) A rescission letter is in the custody of the U.S. Postal Service when the letter is actually placed in the possession of a U.S. Postal Service employee or in a receptacle for letters authorized by the U.S. Postal Service.

KEY: telephones, fraud, consumers

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