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Comparison of Senate Bill 255, Assembly Bill 232 (First Reprint), Federal Trade Commission Do-Not Call Regulations and Federal Communications Commission Rules

	SB 255	AB 232	FTC	FCC
Use of device for automatic dialing and announcing	Prohibited unless: before message, live voice informs receiver machine will deliver message; receiver has given consent to receive recorded messages; sender gets number from do-call list; or, emergency call. Caller must provide name, address, phone number. Sec.2			Except for emergency calls or calls made with prior express consent of the person being called, auto dialers and any artificial or prerecorded voice messages may not be used to contact numbers assigned to: any emergency telephone line; telephone line of any guest or patient room at a hospital, health care facility, home for the elderly, or similar establishment; a paging service, cellular telephone service, or other radio common carrier service, if person called would be charged for the call; or any other service for which person being would be charged for the call. Calls using artificial or prerecorded voice messages - including those that do not use autodialers – may not be made to residential telephone numbers except: emergency calls to ensure consumer's health and safety; calls for which receiver has given prior consent; non-commercial calls; calls which don't include unsolicited

	SB 255	AB 232	FTC	FCC
				advertisements; calls by, or on behalf of, tax-exempt non-profit organizations; or calls with an established business relationship. If auto dialer used to deliver artificial or prerecorded voice message, message must state at beginning, identity of the business, individual, or other entity initiating call. During or after message, caller must give telephone number (other than that of auto dialer or prerecorded message player that placed call) or address of business, other entity, or individual that made call. May not be a 900 number or any other number for which charges exceed local or long distance transmission charges. Auto dialers that deliver recorded message must release called party's telephone line within 5 seconds of time calling system receives notification called party's line hung up.
Noncommercial telephone service defined	Primarily personal service to a residence, to a mobile, cellular, pager or beeper device. Sec. 8			

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	SB 255	AB 232	FTC	FCC
Do-call registry defined	Phone number database of subscribers who want telemarketing calls. Sec. 7	Do-not call registry. Sec. 4, 7	National do-not call list.	No centralized list. Person or entity placing live telephone solicitations to residence must maintain a record of request not to receive future telephone solicitations from that person or entity. Record of do-not-call request must be maintained for ten years.
Subscriber defined	Natural person using noncommercial service. Sec. 9			
Telemarketer defined	Person who makes or causes a telemarketing call to be made. Sec. 10	"Telephone solicitor" defined as person who makes or causes an unsolicited call to be made. Sec. 5		"telephone solicitation": call that acts as advertisement.
Telemarketing call defined	Call made live or by device whose primary purpose is to solicit a sale, lease or investment in goods or services. Sec. 11	"Unsolicited telephone call for the sale of goods or services" defined as a call, other than one on behalf of a charity or political party or candidate for office, to rent, lease, sell, exchange, promote or gift any good or service, or, solicit contributions or information. Sec.6 "Good or service" defined as: 1) property or product, tangible or intangible; 2) any service; 3) loan or extension of credit; 4) insurance; 5) any investment or opportunity for investment; 6) and gift, prize or bonus; 7) anything of value. Sec. 6	Any plan, program or campaign to sell goods or services, including telemarketers who solicit consumers on behalf of third parties. Includes for-profit telemarketers who conduct interstate solicitation of charitable contributions. Non-profit charities do not have to use the do-not call list but must honor do-not call requests from receivers.	

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	SB 255	AB 232	FTC	FCC
Inclusion in Registry	Subscriber requests A.G. to put number in registry. Sec. 12	Person requests name be placed in registry using toll-free number provided by Consumer's Advocate or any other method proved by the C.A. Person must request name be added every 3 years after 1/1/07. Sec. 7	Person requests inclusion using toll-free number or online. Number remains on list for 5 years.	No centralized list. Person or entity placing live telephone solicitations to residence must maintain a record of request not to receive future telephone solicitations from that person or entity. Record of do-not-call request must be maintained for ten years.
Removal from Registry		1) C.A. purges registry every 3 years of all numbers unless person requests their number be maintained in Registry. 2) Person may request C.A. in writing to remove number. Sec. 7	Number remains on list for 5 years, until phone number changes or until person requests removal from list.	Record of do-not-call request must be maintained for ten years.
Creation of Registry	A. G. to establish, operate and publicize do-call registry. A. G. to adopt regulations to carry out Act. Sec. 13	Per amendment now being drafted, Consumers' Advocate to establish and maintain (or authorize someone else to) a do-not call registry. List to be updated at least once every 6 months. Sec. 7. C.A. to adopt regulations to carry out Act. Sec. 16	Established by FTC. Telemarketers must search registry once every 90 days and delete from their call lists numbers in the registry.	
Fees	$250/year paid by telemarketer. Sec. 13	C.A. to establish fee not to exceed $1,000/year, no matter how many revised lists published during calendar year. Sec. 10		
Funding	All fees and fines dedicated to costs of administration and enforcement. Sec. 16	All fees and fines dedicated to costs of administration and enforcement. C.A. submits itemized account each year to		

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	SB 255	AB 232	FTC	FCC
		Legislature. Sec. 15 Per amendment now being drafted, c$200,000 from the A.G.'s Special Fund established by NRS 598A.260(1) will be used for start-up costs.		
Penalties	$500 first offense; $2,500 second offense; $5,000 for subsequent offenses. Sec. 14	C.A. may petition court to enforce C.A.'s orders, impose penalty of not more than $5,000 for each act of non-compliance and for such injunctive or equitable relief as the court deems appropriate. Sec.13 C.A. may bring civil action to revoke privilege to conduct business in Nevada or dissolve corporation. Sec. 1	Fine of up to $11,000 for each call.	Some states permit file law suits against the violators; person may be awarded $500 in damages or actual monetary loss, whichever is greater. This amount may be tripled if person can show caller willfully and knowingly violated do-not-call requirements. FCC may issue fines or citations but cannot award damages
Enforcement	Civil action by A. G. Sec. 14	C.A. can issue notice of violation and require corrective action for first offense. Otherwise, after notice and hearing, C.A. may issue order to cease and desist, pay costs of investigation and prosecution and order restitution to victims. If violator fails to comply, C.A. may petition court to enforce C.A.'s orders, impose penalty of not more than $5,000 for each act of non-compliance and		Some states permit file law suits against the violators; person may be awarded $500 in damages or actual monetary loss, whichever is greater. This amount may be tripled if person can show caller willfully and knowingly violated do-not-call requirements. States themselves may initiate a civil suit in federal district court against any person or entity that engages in pattern or practice of violations.

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		for such injunctive or equitable relief as the court deems appropriate. Sec. 12, 13 C.A. may bring civil action to revoke privilege to conduct business in Nevada or dissolve corporation. Sec. 1.		FCC may issue fines or citations.
Exemptions	Caller is utility, telco or financial institution with prior business relationship to receiver and primary purpose of call is to terminate the relationship. Sec. 15	In addition to complete exemption for charitable and political calls, person may choose either of two options; 1) receive calls expressly requested or authorized by person, including calls where established business relationship exists; 2) no calls even if established business relationship exists Sec. 6	Long-distance phone companies, airlines, insurance companies operating under state regulations. Organizations with an established business relationship can call up to 18 months after last transaction. However, is person requests the organization not call, organization must honor the request despite established business relationship. Companies to which person has made an inquiry or submitted an application can call for 3 months thereafter. Companies a person gives written permission to call them.	Calls or messages placed with receiver's prior consent, regarding a tax-exempt non-profit organization, or from person or organization with whom receiver has an established business relationship. Relationship exists if receiver made inquiry, application, purchase, or transaction regarding products or services offered by person or entity involved.
Public notification of Registry	1) Subscriber to be notified by telephone provider when service first set up and at least annually thereafter by mailers included with bills;	C.A. to shall make info concerning registry available to public. Telephone directories must include information made available to		

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	SB 255	AB 232	FTC	FCC
	2) in any other manner A. G. authorizes; 3) telephone directories must include information in a conspicuous place. Sec. 17	public by C.A. Sec. 8		
Other provisions		Violation constitutes deceptive trade practice for purposes of NRS 598.0903 to 598.0999. Sec. 14 Registry is not a public record and must not be published or released except as specified in Act. Sec.9 Person who obtains copy of registry shall not use it for any purpose other than determining whether a particular number is available for unsolicited calls. Sec. 11		
Effective date	Passage and approval for adopting regulations; 1/1/04 for establishment of registry and 2/1/04 for remaining sections as specified. Sec. 19	Passage and approval for adopting regulations; 10/1/03 for accepting requests for inclusion in registry; 12/1/03 for establishing first list; 1/1/04 for all other purposes. Sec. 17	7/03 consumers begin registering free online or by calling toll-free number. To manage anticipated volume of registrations, initial sign-up by phone will be phased in, region-by-region, over eight-week period. Online registration available nation-wide in July. In September, telemarketers	

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	SB 255	AB 232	FTC	FCC
			and other sellers will have access to registry and be required to scrub call lists against "do not call" registry at least once every 90 days. In October, FTC and States start to enforce "do not call" provisions.	

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