

R152. Commerce, Consumer Protection.

R152-26. Telephone Fraud Prevention Act Rule.

R152-26-1. Purpose.

The purpose of this rule is to:

- (1) establish registration requirements for a seller;
- (2) establish the registration process for a seller;
- (3) establish the process by which a seller may update its registration; and
- (4) aid the division's administration and enforcement of Title 13, Chapter 26, Telephone Fraud Prevention Act.

R152-26-2. Authority.

This rule is promulgated in accordance with Subsections 13-2-5(1), 13-26-3(5), and 13-26-3(6).

R152-26-3. Definitions.

As used in Subsection 13-26-4(2)(i), an "isolated transaction" means two or fewer transactions in any twelve-month period.

R152-26-4. Application for Registration.

- (1) An application for registration as a seller shall be submitted on the form and in the manner approved by the division;
- (2) The application shall include:
 - (a) the applicant's:
 - (i) name, and any alternate name including dba or trade name, that the applicant uses as a seller;
 - (ii) street address;
 - (iii) mailing address;
 - (iv) telephone number, and if applicable facsimile number;
 - (v) email address;
 - (b) the name and contact information of a person the division can contact regarding the application;
 - (c) the name and contact information of the applicant's registered agent, and proof of the registered agent's residency in Utah;
 - (d) a description of the applicant's business entity type and documentation showing the entity's legal status;
 - (e) each participant's fingerprints, in the form approved by the division, and the participant's consent to a criminal background check in accordance with Subsection 13-26-3(4)(c);
 - (f) a copy of each script used by the applicant or the applicant's solicitor in connection with a telephone solicitation;
 - (g) a description of each good or service that the applicant will offer in a telephone solicitation;
 - (h) disclosure of:
 - (i) each participant's name, date of birth, and title;
 - (ii) any criminal conviction entered against an applicant's participant within the 10 years preceding the application's filing;
 - (iii) any of the following:
 - (A) a conviction of a felony or misdemeanor or plea of no contest to a felony or misdemeanor charge, if the felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or
 - (B) a finding of liability or consent to the entry of a stipulated judgment in an administrative or civil action based upon fraud, embezzlement, fraudulent conversion, misappropriation of property, the use of untrue or misleading representations, or the use of any unfair, unlawful, or deceptive business practice; or
 - (C) an injunction or restrictive order relating to business activity as the result of a government agency action;
 - (iv) any business operated by the applicant or the applicant's owner, officer, director, or principal within the last 10 years;
 - (v) any other business license, permit, or registration held by the applicant;
 - (vi) any telemarketing license, permit, or registration the applicant or participant obtained or attempted to obtain that has been denied, revoked, or suspended in Utah or another state;
 - (vii) each address where a telephone solicitation will be made or received by the applicant or its solicitor;
 - (viii) any company that provides telecommunication services to the applicant, including telephone and text messaging service;
 - (ix) any website the applicant or its solicitor uses in connection with a telephone solicitation;
 - (x) the account number of any merchant account used by the seller in connection with a telephone solicitation;
 - (i) in accordance with Subsections 13-26-3(3)(a), (b), and (e), completed surety documentation in the form approved by the division; and
 - (j) the required filing fee.
- (3) A bond, irrevocable letter of credit, or certificate of deposit tendered to the division to fulfill the requirements of Subsection 13-26-3(3)(a) may take any form that the director deems commercially and legally reasonable and consistent with Section 13-26-3 and this rule.

(4) In accordance with Subsection 13-26-3(7), the director may deny an application for registration if the applicant fails to comply with Rule R152-26-5.

R152-26-5. Material Change to Information in Application.

(1) In accordance with Subsection 13-26-3(6), if information in an application for registration or renewal of registration as a seller materially changes or becomes incorrect or incomplete, the applicant shall, within 30 days after the information changes or becomes incorrect or incomplete:

- (a) submit the correct and complete information on the corresponding page of the registration application; and
- (b) state in writing that the submission corrects an existing registration application.

(2) If a seller's legal status or ownership materially changes, the seller must submit a new initial application for registration.

- (3) The division director may deny or revoke a registration for failing to comply with Rule R152-26-5.

R152-26-6. Right of Rescission.

For purposes of Subsection 13-26-5(2), a written notification of cancellation is effective the earliest of:

- (1) when the notice is actually received by the seller;
- (2) when the notice is placed in the possession of a U.S. Postal Service employee or in a receptacle for letters authorized by the U.S. Postal Service, provided the postage is prepaid and the letter is properly addressed to the seller; or
- (3) when the notice is placed in the possession of a common carrier for delivery within three days.

KEY: telephones, fraud, consumers

Date of Last Change: December 22, 2022

Notice of Continuation: March 22, 2021

Authorizing, and Implemented or Interpreted Law: 13-2-5(1); 13-26-3(5); 13-26-3(6)