

Colorado

Colorado's Telemarketing Laws

Colorado state law regulates telemarketing under C.R.S. §§ 6-1-301 to 305. These provisions are contained in Colorado's Consumer Protection Act.

Some distinctions between Colorado's telemarketing laws and the TCPA are:

Who must comply with these laws?

- Entities or individuals that fall under the definition of "commercial telephone seller" or "seller."
- A "commercial telephone seller" or "seller" means a person who, in the course of such person's business, vocation, or occupation, on the person's own behalf or on behalf of another person, causes or attempts to cause a commercial telephone solicitation to be made.ⁱ Exceptions to the definition of "commercial telephone seller" or "seller" can be found in C.R.S. 6-1-302(a) – (t).

What must a "commercial telephone seller" or "seller" do to conduct business in Colorado?

- A "commercial telephone seller" or "seller" cannot conduct business in Colorado without having registered with the Colorado Attorney General at least ten days before conducting business.ⁱⁱ
- A registration is effective for one year after the date of filing with the attorney general. Each application for renewal must be accompanied by a filing fee, determined and collected by the attorney general, but cannot exceed two hundred and fifty dollars.
- Each application for registration must be in writing and must include information about the conduct of the commercial telephone seller's business and the personnel conducting the business as required by law. The application must be submitted on a form provided by the attorney general and shall be verified by a declaration signed by each principal of the commercial telephone seller under penalty of perjury.
- Each application for registration or renewal must contain:
 - The names of the commercial telephone seller, including all names under which the commercial telephone seller is doing or intends to do business, if different from the name of the seller,

and the name of any parent or affiliated organization;

- The seller's business form and the date and place of organization;
- The complete street addresses of all locations from which the commercial telephone seller is or will be conducting business, including a designation of the seller's principal business location;
- A listing of all telephone numbers, including pay-per-call numbers, to be used by the commercial telephone seller;
- The name, residential address, and position held by each principal of the commercial telephone seller and the names, residential addresses, and positions of those persons who have management responsibilities in connection with the commercial telephone seller's business activities;
- A description of the goods, services, property, or extension of credit the commercial telephone seller is offering for sale and a copy of all sales scripts the commercial telephone seller requires salespersons to use when soliciting prospective purchasers, or, if no sales script is required to be used, a description of the sale presentation;
- All rules, regulations, terms, restrictions, and conditions to receiving any prize, bonus, award, gift, or premium, if applicable, including a description of each prize, bonus, award, gift, or premium, and the actual or approximate odds of a purchaser receiving such prize, bonus, award, gift, or premium;
- A copy or representative sample of all written materials the seller sends to any purchaser;
- Such additional information regarding the conduct of the commercial telephone seller's business and the personnel conducting the business and the personnel conducting the business as may reasonably be required by the attorney general.ⁱⁱⁱ

Before conducting any such business in Colorado, all of Colorado's telemarketing laws and rules should be reviewed to ensure compliance.

Penalties

Any person who, after receiving written notice of noncompliance from the attorney general or a district attorney general or a district attorney, conducts business as a commercial telephone seller without having registered with the attorney general commits a class 1 misdemeanor.

A commercial telephone seller who knowingly engages in any unlawful telemarketing practice also commits a class 1 misdemeanor.

And a person who engages in any unlawful telemarketing practice can be liable in a private civil action to the owner of the cellular telephone for consequential damages, court costs, attorney fees and a penalty in the amount of at least three hundred dollars and not more than five hundred dollars for a first offense and at least five hundred dollars and not more than one thousand dollars for a second or subsequent offense.^{iv}

Colorado's privacy laws should be considered when interfacing with its telemarketing laws

Colorado's Privacy Act should be considered when conducting telemarketing in Colorado

Colorado enacted state Colorado Privacy Act 2021. The Act went into effect in 2023.^v The Privacy Act applies to “a controller” that:

- Conducts business in Colorado who produces or delivers commercial products or services that are intentionally targeted to Colorado residents and:
 - Controls or processes the personal data of one hundred thousand consumers or more during a calendar year; or
 - Derives revenue or receives a discount on the price of goods or services from the sale of personal data and processes or controls the personal data of twenty-five thousand consumers or more.^{vi}

NOTE: this version of C.R.S. 6-1-1304(1) is effective until July 1, 2025. Another version of C.R.S. 6-1-1304(1) will be in effect from July 1, 2025 to October 1, 2025. A third version of C.R.S. 6-1-1304(1) will be in effect from October 1, 2025 on.

Who is a “controller” under Colorado's Privacy Act?

Under Colorado's Privacy Act a “controller” is a person that, alone or jointly with others, determines the purposes for and means of processing personal data.^{vii} The duties of a “controller” can be found in C.R.S. § 6-1-1308, C.R.S. 6-1-1308.5

What is “personal data” under Colorado's Privacy Act?

Under Colorado's Privacy Act “personal data” is information that is linked or reasonably linkable to an identified or identifiable individual.^{viii} “Personal data” does not include de-identified data or publicly available information. “Publicly available information” is information that is lawfully made available from federal, state, or local government records and information that a controller has a reasonable basis to believe the consumer has lawfully made available to the general public.

Colorado's Privacy Act also applies to “processors”?

A “processor” is person that processes personal data on behalf of a controller.^{ix}

Consumer personal data rights

Under Colorado's Privacy Act, consumers have many rights related to their personal data. Those right include:

- The right to opt out;
- The right of access;
- The right to correction;
- The right to deletion; and

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- The right to data portability.^x

Enforcement

Colorado's attorney general and district attorneys have exclusive authority to enforce the Privacy Act by bringing an action against a violator. There is no private right of action. A violation of the Privacy Act is enforced as a deceptive trade practice under Colorado's Consumer Protection Act.^{xi}

Colorado's No-Call List Act should also be considered

Under Colorado's No-Call List Act it is illegal for any person or entity to make or cause to be made any telephone solicitation to the telephone of any residential subscriber or wireless telephone service subscriber who has added their telephone number and zip code to the Colorado no-call list.^{xii}

Any person or entity that wants to make telephone solicitations shall update their copies of Colorado's no-call list, conforming consolidated no-call list, or a list obtained from a conforming list broker within thirty days after the beginning of every calendar quarter, on or after July 1, 2022, or upon the initial availability and accessibility of the Colorado no-call list, whichever is earlier.^{xiii}

What are the current best practices to comply with the State's iteration of the TCPA?

Best practices for compliance with Colorado's telemarketing laws is to regularly review the applicable statutes to check for any changes or updates, make sure to register with Colorado's attorney general as required and compliance with Colorado's No-Call List Act. Compliance with Colorado's Privacy Act may also be required. Because privacy laws are constantly changing, monitoring state specific privacy law should be part of the compliance process.

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- ⁱ C.R.S. § 6-1-302(1).
 - ⁱⁱ C.R.S. § 6-1-303(1).
 - ⁱⁱⁱ C.R.S. § 6-1-303(5)(a) – (i).
 - ^{iv} C.R.S. § 6-1-305.
 - ^v C.R.S. §§ 6-1-1301 et. seq.
 - ^{vi} C.R.S. § 6-1-1304(1).
 - ^{vii} C.R.S. § 6-1-1303(7).
 - ^{viii} C.R.S. § 6-1-1303(17).
 - ^{ix} C.R.S. § 6-1-1303(19).
 - ^x C.R.S. § 6-2-1306(a).
 - ^{xi} C.R.S. § 6-1-1311(1).
 - ^{xii} C.R.S. § 6-1-904(1).
 - ^{xiii} C.R.S. § 6-1-904(4).