

Maine

Does Maine have its own version of the TCPA?

Yes. Maine's version of the TCPA is 10 M.R.S. §1499-B, also known as Maine's "Do Not Call" law.

If so, please explain the distinction between the state's iteration of the TCPA.

The distinction between 10 M.R.S. § 1499-B and the TCPA lies primarily in their scope and regulatory focus.

- Jurisdiction: 10 M.R.S. § 1499-B applies specifically within the state of Maine, while the TCPA applies nationwide.
- Regulatory Focus: 10 M.R.S. § 1499-B focuses on consumer protection as it relates to telephone solicitation issues specific to Maine, whereas the TCPA addresses telemarketing and unsolicited communications on a broader, national scale.
- The TCPA imposes restrictions on the use of automated telephone equipment, including automatic dialing systems, prerecorded voice messages, SMS text messages, and fax machines. It aims to protect consumers from unwanted and intrusive communications, providing a uniform standard across all states.
- In Maine, § 1499-B was enacted to ensure that local businesses and consumers adhere to state-specific standards and protections for Maine consumers relating to telephone solicitations.

2024 Amendments to 10 M.R.S. § 1499-B

- Maine's law was amended in 2024 adding a Definition for "Reassigned Numbers Database" §1499-B(1)(D-2). **A Reassigned Numbers Database in Maine means a database created and maintained by the Federal Communications Commission that identifies whether a telephone number has been reassigned.**
- §1499-B(6) Telephone solicitation violations. It is a violation of this section for a telephone solicitor to initiate a telephone sales call to a consumer if that consumer's telephone number has been on the national or state do-not-call registry, established by the Federal Trade Commission, for at least 3 months prior to the date the call is made **or to fail to use the reassigned numbers database to verify that a consumer's telephone number has not been reassigned prior to initiating a telephone sales call to that consumer.**

- §1499-B(6)(E)-(E-1) - A telephone solicitor is not liable for violating this section if the telephone solicitor can demonstrate that:
 - E. As part of the telephone solicitor's routine business practice, the telephone solicitor or another person acting on behalf of the telephone solicitor monitors and enforces compliance with the procedures established pursuant to paragraph A; and
 - E-1. As part of the telephone solicitor's routine business practice, the telephone solicitor or another person acting on behalf of the telephone solicitor uses the reassigned numbers database to verify that a consumer's telephone number has not been reassigned prior to initiating a telephone sales call to that consumer.

Please address state specific consumer protection statutes that are often paired with TCPA or its state iterations and the additional element and penalties.

Maine consumer protection statutes often paired with the TCPA include the Maine Unfair Trade Practices Act (UTPA), codified at 5 M.R.S. §§ 205-A to 214. The UTPA prohibits unfair or deceptive acts or practices in trade or commerce and provides for private rights of action, allowing consumers to seek restitution, actual damages, and equitable relief, including injunctions.ⁱ

- The UTPA is designed to align with federal interpretations of unfair or deceptive practices under the Federal Trade Commission Act, providing clear guidance for Maine courts.ⁱⁱ
- Additionally, the UTPA requires that a plaintiff must have suffered a substantial loss of money or property to bring a private action.ⁱⁱⁱ
- Penalties under the UTPA can include restitution, actual damages, and equitable relief, such as injunctions, as deemed necessary by the court.^{iv}
- The statute also allows for the recovery of attorney's fees in certain cases.^v
- Attorney General Remedies: The Attorney General can seek injunctions, civil penalties, restitution, and reasonable costs and attorney's fees for violations of 10 M.R.S. § 1499-B.^{vi}
- Sanctions and Penalties: Violations can result in civil penalties of up to \$10,000 for the first violation and \$25,000 for subsequent violations.^{vii}

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

To comply with 10 M.R.S. §1499-B, telephone solicitors must adhere to several key practices:

- Do-Not-Call Registry: Solicitors must not call consumers whose numbers have been on the national or state do-not-call registry for at least three months prior to the call.
- Reassigned Numbers Database: Solicitors must use the reassigned numbers database to verify that a consumer's telephone number has not been reassigned before making a call.
- Disclosure Requirements: Upon making contact, solicitors must immediately disclose their real first and last name and the name of the business they represent.
- Written Procedures and Training: Solicitors must establish and implement written procedures to comply with the law, train their personnel in these procedures, and maintain a list of numbers they may not contact.
- Monitoring and Enforcement: Solicitors must monitor and enforce compliance with these procedures.

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- Violations of 10 M.R.S.A. § 1499-B are considered unfair and deceptive acts under the Maine Unfair Trade Practices Act (UTPA).

ⁱ *Bartner v. Carter*, 405 A.2d 194 (1979).

ⁱⁱ *Id.*; *Maine v. Weinschenk*, 868 A.2d 200 (2005).

ⁱⁱⁱ *McKinnon v. Honeywell Intern., Inc.*, 977 A.2d 420 (2009).

^{iv} *Brown v. Compass Harbor Village Condominium Association*, 229 A.3d 158 (2020).

^v *Maine, ex rel. Tierney v. Ford Motor Co.*, 436 A.2d 866 (1981).

^{vi} 10 M.R.S. § 1499-B.

^{vii} *Id.*