

SECOND REGULAR SESSION

HOUSE BILL NO. 2546

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BOGGS.

4528H.02I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 407.1095, 407.1098, 407.1101, and 407.1104, RSMo, and to enact in lieu thereof four new sections relating to the telemarketing no-call list.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 407.1095, 407.1098, 407.1101, and 407.1104, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections 407.1095,
3 407.1098, 407.1101, and 407.1104, to read as follows:

407.1095. As used in sections 407.1095 to 407.1110, the following words and phrases
2 mean:

3 (1) **"Business subscriber", a person or entity that, for business use, has**
4 **subscribed to telephone service, wireless service, or other similar service;**

5 (2) **"Call spoofing", the practice by a calling party or any caller identification**
6 **service of knowingly transmitting misleading or inaccurate caller identification**
7 **information with the intent to defraud, cause harm, harass, or wrongfully obtain**
8 **anything of value;**

9 (3) **"Caller identification service", a type of telephone service which permits**
10 **telephone subscribers to see the telephone number of incoming telephone calls;**

11 [~~(2)~~] (4) **"Residential subscriber", a person who, for [primarily] personal and familial**
12 **use, has subscribed to residential telephone service, wireless service or similar service, or the**
13 **other persons living or residing with such person;**

14 [~~(3)~~] (5) **"Seller", the same as defined in section 407.1070;**

15 (6) **"Telemarketer", the same as defined in section 407.1070;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (7) "Telephone solicitation", any voice, facsimile, short messaging service (SMS), or
17 multimedia messaging service (MMS), for the purpose of encouraging the purchase or rental
18 of, or investment in, property, goods or services, **or soliciting donations of money, property,**
19 **goods, or services,** but does not include communications:

20 (a) To any **business subscriber or** residential subscriber with that subscriber's prior
21 express invitation or permission;

22 (b) By or on behalf of any person or entity with whom a **business subscriber or**
23 residential subscriber has had a business contact within the past one hundred eighty days or a
24 current business or personal relationship;

25 (c) By or on behalf of an entity organized pursuant to Chapter 501 (c)(3) of the United
26 States Internal Revenue Code, while such entity is engaged in ~~[fund-raising]~~ **fundraising** to
27 support the charitable purpose for which the entity was established provided that a bona fide
28 member of such exempt organization makes the voice communication;

29 (d) By or on behalf of any entity over which a federal agency has regulatory authority
30 to the extent that:

31 a. Subject to such authority, the entity is required to maintain a license, permit or
32 certificate to sell or provide the merchandise being offered through telemarketing; and

33 b. The entity is required by law or rule to develop and maintain a no-call list[;

34 ~~(e) By a natural person responding to a referral, or working from his or her primary~~
35 ~~residence, or a person licensed by the state of Missouri to carry out a trade, occupation or~~
36 ~~profession who is setting or attempting to set an appointment for actions relating to that~~
37 ~~licensed trade, occupation or profession within the state or counties contiguous to the state].~~

407.1098. No person or entity shall make or cause to be made any telephone
2 solicitation, **including via call spoofing**, to any **business subscriber or** residential subscriber
3 in this state who has given notice to the attorney general, in accordance with rules
4 promulgated pursuant to section 407.1101 of such subscriber's objection to receiving
5 telephone solicitations.

407.1101. 1. The attorney general shall establish and provide for the operation of a
2 database to compile a list of telephone numbers of **business subscribers and** residential
3 subscribers who object to receiving telephone solicitations. ~~[Such list is not intended to~~
4 ~~include any telephone number primarily used for business or commercial purposes.]~~

5 2. The attorney general shall promulgate rules and regulations governing the
6 establishment of a state no-call database as he or she deems necessary and appropriate to fully
7 implement the provisions of sections 407.1095 to 407.1110. The rules and regulations shall
8 include those which:

9 (1) Specify the methods by which each **business subscriber or** residential subscriber
10 may give notice to the attorney general or its contractor of his or her objection to receiving

11 such solicitations or revocation of such notice. There shall be no cost to the subscriber for
12 joining the database;

13 (2) Specify the length of time for which a notice of objection shall be effective and
14 the effect of a change of telephone number on such notice;

15 (3) Specify the methods by which such objections and revocations shall be collected
16 and added to the database;

17 (4) **Specify that once a person gives notice of objection, the person shall not have**
18 **to renew his or her objection;**

19 (5) Specify the methods by which any person or entity desiring to make telephone
20 solicitations will obtain access to the database as required to avoid calling the telephone
21 numbers of **business subscribers or** residential subscribers included in the database,
22 including the cost assessed to that person or entity for access to the database; **and**

23 ~~[(5)]~~ (6) Specify such other matters relating to the database that the attorney general
24 deems desirable.

25 3. If the Federal Communications Commission establishes a single national database
26 of telephone numbers of subscribers who object to receiving telephone solicitations pursuant
27 to 47 U.S.C. Section 227(c)(3), the attorney general shall include that part of such single
28 national database that relates to Missouri in the database established pursuant to this section.

29 4. Information contained in the database established pursuant to this section shall be
30 used only for the purpose of compliance with section 407.1098 and this section or in a
31 proceeding or action pursuant to section 407.1107. Such information shall not be considered
32 a public record pursuant to chapter 610.

33 5. In April, July, October and January of each year, the attorney general shall be
34 encouraged to obtain subscription listings of **business subscribers and** residential
35 subscribers in this state who have arranged to be included on any national do-not-call list
36 and add those telephone numbers to the state do-not-call list.

37 6. The attorney general may utilize moneys appropriated from general revenue and
38 moneys appropriated from the merchandising practices revolving fund established in section
39 407.140 for the purposes of establishing and operating the state no-call database.

40 7. Any rule or portion of a rule, as that term is defined in section 536.010, that is
41 created under the authority delegated in sections 407.1095 to 407.1110 shall become effective
42 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
43 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
44 vested with the general assembly pursuant to chapter 536 to review, to delay the effective date
45 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
46 rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid
47 and void.

407.1104. 1. Any person or entity who makes a telephone solicitation to any
2 **business subscriber or** residential subscriber in this state shall, at the beginning of such
3 solicitation, state clearly the identity of the person or entity initiating the solicitation.

4 2. No person or entity who makes a telephone solicitation to a **business subscriber**
5 **or** residential subscriber in this state shall knowingly use any method, **including call**
6 **spoofing**, to block or otherwise circumvent any subscriber's use of a caller identification
7 service.

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