SECOND REGULAR SESSION

HOUSE BILL NO. 2472

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KALBERLOH.

AN ACT

To repeal sections 407.1095, 407.1098, 407.1101, and 407.1104, RSMo, and to enact in lieu
    thereof five new sections relating to electronic communications, with penalty
    provisions.

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2 repealed and five new sections enacted in lieu thereof, to be known as sections 407.1095,
3 407.1098, 407.1101, 407.1104, and 407.1115, 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;**

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, but does not include communications:
19   (a) To any **business subscriber or** residential subscriber with that subscriber's prior
20 express invitation or permission;
21   (b) By or on behalf of any person or entity with whom a **business subscriber or**
22 residential subscriber has had a business contact within the past one hundred eighty days or a
23 current business or personal relationship;
24   (c) By or on behalf of an entity organized pursuant to Chapter 501 (c)(3) of the United
25 States Internal Revenue Code, while such entity is engaged in [fund-raising] **fundraising** to
26 support the charitable purpose for which the entity was established provided that a bona fide
27 member of such exempt organization makes the voice communication;
28   (d) By or on behalf of any entity over which a federal agency has regulatory authority
29 to the extent that:
30   a. Subject to such authority, the entity is required to maintain a license, permit or
31 certificate to sell or provide the merchandise being offered through telemarketing; and
32   b. The entity is required by law or rule to develop and maintain a no-call list[;
33   (e) By a natural person responding to a referral, or working from his or her primary
34 residence, or a person licensed by the state of Missouri to carry out a trade, occupation or
35 profession who is setting or attempting to set an appointment for actions relating to that
36 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
business subscriber or residential subscriber in this state shall, at the beginning of such
solicitation, state clearly the identity of the person or entity initiating the solicitation.

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

**407.1115. 1. This section shall be known and may be cited as the "Caller ID
Anti-Spoofing Act".**

2. As used in this section, the following terms mean:

(1) "Automatic telephone dialing system" equipment that has the capacity to:

**(a) Store or produce telephone numbers to be called, using a random or
sequential number generator; and**

(b) Dial such numbers;

**(2) "Call", any telephone call, facsimile, or text message made using a public
switched telephone network, wireless cellular telephone service, or voice-over-internet
protocol (VoIP) service that has the capability of accessing users on the public switched
telephone network or a successor network;**

**(3) "Caller", a person or entity who places a call, facsimile, or text message,
whether by phone or computer;**

**(4) "Caller identification information", information provided by a caller
identification service regarding the telephone number or other origination information
of a call or facsimile transmission made using a telecommunications service or an
interconnected VoIP service or of a text message sent using a text-messaging service;**

**(5) "Caller identification service", any service or device designed to provide the
user of the service or device with the telephone number or other origination information
of a call or facsimile transmission made using a telecommunications service or an
interconnected VoIP service or of a text message sent using a text messaging service.
"Caller identification service" includes automatic number identification services;**

**(6) "Provider", a telecommunication company that provides voice
communication services to customers in this state;**

**(7) "Robocall", a call made, including a text message sent, to any telephone
number owned by a person or entity in the state using an automatic telephone dialing
system or an artificial or prerecorded voice;**

**(8) "STIR/SHAKEN" or the "Secure Telephone Identity Revisited (STIR) and
Signature-based Handling of Asserted Information Using toKENs (SHAKEN)", an
authentication framework of interconnected standards adopted by the Federal**

31 Communications Commission. "STIR/SHAKEN" digitally validates the handoff of
32 phone calls passing through the complex web of networks, allowing the phone company
33 of the consumer receiving the call to verify that a call is in fact from the number
34 displayed on Caller ID;
35   (9) "Text message":
36   (a) A real-time or near real-time message consisting of text, images, sounds, or
37 other information that is transmitted from or received by a device that is identified as
38 the transmitting or receiving device by means of a telephone number;
39   (b) Includes a short message service (SMS) message, an enhanced message
40 service (EMS) message, and a multimedia message service (MMS) message; and
41   (c) Does not include a real-time, two-way voice or video communication;
42   (10) "Text messaging service", a service that permits the transmission or receipt
43 of a text message, including a service provided as part of or in connection with a
44 telecommunications service or an interconnected VoIP service;
45   (11) "Voice service", any service that is interconnected with the public switched
46 telephone network and that furnishes voice communications to an end user using
47 resources from the North American Numbering Plan or any successor to the North
48 American Numbering Plan adopted by the public service commission under the
49 Communications Act of 1934, 47 U.S.C. Section 251(e)(1), as amended; and includes:
50   (a) Transmissions from a telephone facsimile machine, computer, or other device
51 to a telephone facsimile machine; and
52   (b) Without limitation, any service that enables real-time, two-way voice
53 communications, including any service that requires internet protocol-compatible
54 customer premises equipment (commonly known as "CPE") and permits outbound
55 calling, whether the service is one-way or two-way voice over internet protocol.
56   3. Consistent with authorization provided by federal law and rules of the Federal
57 Communications Commission or its successors:
58   (1) Providers shall block a voice call when the subscriber to which the
59 originating number is assigned has requested that calls purporting to originate from
60 that number be blocked because the number is used for inbound calls only; and
61   (2) Providers shall block calls originating from the following numbers:
62   (a) A number that is not a valid North American numbering plan number;
63   (b) A valid North American numbering plan number that is not allocated to a
64 provider by the North American numbering plan administrator; and
65   (c) A valid North American numbering plan number that is allocated to a
66 provider by the North American number plan administrator or pooling administrator,
67 but is unused, so long as the provider blocking the calls is the allocatee of the number

68 and confirms that the number is unused or has obtained verification from the allocatee
69 that the number is unused at the time of the blocking.
70   4. Consistent with the authorization provided by federal law and rules of the
71 Federal Communications Commission or its successors:
72   (1) Providers shall not block a voice call if the call is an emergency call placed to
73 911; and
74   (2) Providers shall not block a voice call to a subscriber who has requested that
75 no inbound calls be blocked.
76   5. For purposes of blocking calls from certain originating numbers as authorized
77 in subsections 3 and 4 of this section, a provider may rely on caller identification service
78 information to determine the originating number.
79   6. Notwithstanding any other provision of law to the contrary, a voice service
80 provider shall be considered to be in compliance with this section and any rule or
81 regulation adopted thereunder if that provider has filed a certification with the Federal
82 Communications Commission that the provider's traffic is either authenticated with
83 STIR/SHAKEN or subject to a compliant robocall mitigation program. A copy of such
84 certification shall be made available to the attorney general upon request.
85   7. No later than August 28, 2027, a provider of voice service shall implement
86 STIR/SHAKEN authentication protocol or an alternative technology that provides
87 comparable or superior capability to verify and authenticate caller identification in the
88 internet protocol networks of voice service providers.
89   8. (1) Any voice service provider that knowingly fails or neglects to comply with
90 this section, or a rule or regulation adopted thereunder, shall be subject to the payment
91 of fines as follows:
92   (a) A sum of twenty-five thousand dollars for the first offense;
93   (b) A sum of fifty thousand dollars for the second offense; and
94   (c) A sum of seventy-five thousand dollars for the third or any subsequent
95 offense.
96   (2) All fines collected by the attorney general under this section shall be
97 deposited into the state treasury to be credited to the merchandising practices revolving
98 fund created under section 407.140.
99   9. The attorney general has jurisdiction to commence an action on behalf of the
100 state of Missouri for any violations under this section in a court of competent
101 jurisdiction. The court may, upon notice to the defendant of not less than five days,
102 grant injunctive relief to enjoin and restrain the continuation of any violations, and for
103 the enforcement and collection of the fines under subsection 8 of this section.
104   10. It shall be a violation of this section for a caller to:

105　　　**(1)　Enter or cause to be entered false information into a caller identification**
106　**service with the malicious intent to deceive, defraud, or mislead the recipient of a call; or**
107　　　**(2)　Place a call knowing that false information was entered into the caller**
108　**identification service with the intent to deceive, defraud, or mislead the recipient of the**
109　**call.**
110　　　**11.　This section shall not apply to:**
111　　　**(1)　The blocking of caller identification information;**
112　　　**(2)　Any law enforcement agency of the federal, state, county, or municipal**
113　**government;**
114　　　**(3)　Any intelligence or security agency of the federal government; or**
115　　　**(4)　A communications service provider, including a telecommunications,**
116　**broadband, or voice-over-internet service provider that:**
117　　　**(a)　Acts in the communications service provider's capacity as an intermediary**
118　**for the transmission of telephone service between the caller and the recipient;**
119　　　**(b)　Provides or configures a service or service feature as requested by the**
120　**customer;**
121　　　**(c)　Acts in a manner that is authorized or required by applicable law; or**
122　　　**(d)　Engages in other conduct that is necessary to provide service.**
123　　　**12.　The recipient of any call in which the caller uses false caller identification**
124　**information shall have standing to recover actual and punitive damages against the**
125　**caller.　Punitive damages shall be in an amount determined by the court but not to**
126　**exceed five thousand dollars per call. Call recipients may bring action under this section**
127　**as members of a class.　The attorney general may initiate legal proceedings or intervene**
128　**in legal proceedings on behalf of call recipients and, if the caller is found guilty, shall**
129　**recover all costs of the investigation and prosecution of the action.**
130　　　**13.　It shall be unlawful for any person within the United States, or any person**
131　**outside the United States if the recipient is within the United States, in connection with**
132　**any voice service or text messaging service, to cause any caller identification service to**
133　**knowingly transmit misleading or inaccurate caller identification information with the**
134　**intent to defraud, cause harm, or wrongfully obtain anything of value, unless such**
135　**transmission is exempted under subsection 11 of this section.**

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