

FIRST REGULAR SESSION

SENATE BILL NO. 144

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0717S.011

AN ACT

To repeal sections 407.1095, 407.1098, 407.1104, and 407.1107, RSMo, and to enact in lieu thereof four new sections relating to call spoofing, with penalty provisions.

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

Section A. Sections 407.1095, 407.1098, 407.1104, and 407.1107, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 407.1095, 407.1098, 407.1104, and 407.1107, to read as follows:

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

(1) "Call spoofing", the practice of causing the telephone network to indicate to the receiver of a call that the originator of the call is a station other than the true originating station;

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

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

[(3)] (4) "Telephone solicitation", any voice, facsimile, short messaging service (SMS), or multimedia messaging service (MMS), for the purpose of encouraging the purchase or rental of, or investment in, property, goods or services, but does not include communications:

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

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

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

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

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

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

407.1104. 1. Any person or entity who makes a telephone solicitation to
2 any residential subscriber in this state shall, at the beginning of such solicitation,
3 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 residential
5 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
7 identification service.

407.1107. 1. The attorney general may initiate proceedings relating to a
2 knowing violation or threatened knowing violation of section 407.1098 or
3 407.1104. Such proceedings may include, without limitation, an injunction, a civil
4 penalty up to a maximum of five thousand dollars for each knowing violation and

5 additional relief in any court of competent jurisdiction. **A violation of section**
6 **407.1098 or 407.1104 for call spoofing shall be a class E felony and shall**
7 **carry a civil penalty of ten thousand dollars for each knowing**
8 **violation.** The attorney general may issue investigative demands, issue
9 subpoenas, administer oaths and conduct hearings in the course of investigating
10 a violation of section 407.1098 or 407.1104.

11 2. In addition to the penalties provided in subsection 1 of this section, any
12 person or entity that violates section 407.1104 shall be subject to all penalties,
13 remedies and procedures provided in sections 407.010 to 407.130. The remedies
14 available in this section are cumulative and in addition to any other remedies
15 available by law.

16 3. Any person who has received more than one telephone solicitation
17 within any twelve-month period by or on behalf of the same person or entity in
18 violation of section 407.1098 or 407.1104 may either:

19 (1) Bring an action to enjoin such violation;

20 (2) Bring an action to recover for actual monetary loss from such knowing
21 violation or to receive up to five thousand dollars in damages for each such
22 knowing violation, whichever is greater; or

23 (3) Bring both such actions.

24 4. It shall be a defense in any action or proceeding brought pursuant to
25 this section that the defendant has established and implemented, with due care,
26 reasonable practices and procedures to effectively prevent telephone solicitations
27 in violation of section 407.1098 or 407.1104.

28 5. No action or proceeding may be brought pursuant to this section:

29 (1) More than two years after the person bringing the action knew or
30 should have known of the occurrence of the alleged violation; or

31 (2) More than two years after the termination of any proceeding or action
32 arising out of the same violation or violations by the state of Missouri, whichever
33 is later.

34 6. A court of this state may exercise personal jurisdiction over any
35 nonresident or his or her executor or administrator as to an action or proceeding
36 authorized by this section in the manner otherwise provided by law.

37 7. The remedies, duties, prohibitions and penalties of sections 407.1095
38 to 407.1107 are not exclusive and are in addition to all other causes of action,
39 remedies and penalties provided by law.

40 8. No provider of telephone caller identification service shall be held liable

41 for violations of section 407.1098 or 407.1104 committed by other persons or
42 entities.

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