

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 523
100TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 13, 2019, with recommendation that the Senate Committee Substitute do pass.

0749S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 407.1107, RSMo, and to enact in lieu thereof one new section relating to the no-call list, with penalty provisions.

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

Section A. Section 407.1107, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.1107, to read as follows:

407.1107. 1. The attorney general may initiate proceedings relating to a knowing violation or threatened knowing violation of section 407.1098 or 407.1104. Such proceedings may include, without limitation, an injunction, a **minimum civil penalty of two thousand five hundred dollars** up to a maximum of five thousand dollars for each knowing violation, and additional relief in any court of competent jurisdiction. **Upon a finding of a second violation of section 407.1098 or 407.1104, the minimum civil penalty shall be five thousand dollars up to a maximum of ten thousand dollars.** **A second violation occurs when a person or entity makes a telephone solicitation to the same residential subscriber in this state for a second time. Upon a finding of a third violation of section 407.1098 or 407.1104, the minimum civil penalty shall be seven thousand five hundred dollars up to a maximum of fifteen thousand dollars. A third violation occurs when a person or entity makes a telephone solicitation to the same residential subscriber in this state for a third time. In no event shall any defendant have to pay more than five hundred thousand dollars in civil penalties.** The attorney general may issue investigative demands, issue subpoenas, administer oaths, and conduct hearings in the course of investigating a violation of section 407.1098 or 407.1104. **If a final judgment is entered against a party in violation of section 407.1098 or 407.1104, the court, in its discretion, may enter an order of restitution payable to the state. The attorney general shall have the duty to distribute any**

23 **restitution funds, in an amount not to exceed one hundred dollars per**
24 **person, to those persons who reported the violation of section 407.1098**
25 **or 407.1104 upon which the judgment was entered.**

26 2. In addition to the penalties provided in subsection 1 of this section, any
27 person or entity that violates section 407.1104 shall be subject to all penalties,
28 remedies and procedures provided in sections 407.010 to 407.130. The remedies
29 available in this section are cumulative and in addition to any other remedies
30 available by law.

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

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

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

38 (3) Bring both such actions.

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

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

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

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

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

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

55 8. No provider of telephone caller identification service shall be held liable
56 for violations of section 407.1098 or 407.1104 committed by other persons or
57 entities.

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