

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S3/20/19

A Bill

SENATE BILL 514

5 By: Senator J. Dismang
6 By: Representative Penzo
7

For An Act To Be Entitled

9 AN ACT TO REGULATE TELECOMMUNICATIONS SERVICE
10 PROVIDERS AND THIRD-PARTY SPOOFING PROVIDERS; TO
11 REQUIRE THAT A TELECOMMUNICATIONS SERVICE PROVIDER
12 AND THIRD-PARTY SPOOFING PROVIDER ARE HELD
13 ACCOUNTABLE FOR CERTAIN ACTIVITIES; TO IMPOSE
14 CRIMINAL PENALTIES ON CERTAIN SPOOFING ACTIVITIES;
15 AND FOR OTHER PURPOSES.
16
17

Subtitle

18 TO REGULATE TELECOMMUNICATIONS SERVICE
19 PROVIDERS AND THIRD-PARTY SPOOFING
20 PROVIDERS.
21
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 *SECTION 1. DO NOT CODIFY. Legislative findings and intent.*

27 *(a) The General Assembly finds that:*

28 *(1) The citizens of this state are being negatively affected by*
29 *illegal robocalls from telemarketers and from others seeking to perpetrate*
30 *scams on them;*

31 *(2) While these illegal robocalls are frustrating for most, the*
32 *robocalls are costly and dangerous for far too many Arkansans;*

33 *(3) An alarming number of illegal robocalls originate from*
34 *scammers using automatic telephone dialing systems to send out thousands of*
35 *phone calls per minute with fictitious or misleading names or telephone*
36 *numbers displaying on unsuspecting consumers' telephone caller identification*



1 service;

2 (4) These scammers are engaging in insidious schemes and
3 targeting seniors and other vulnerable groups by soliciting personal
4 information such as credit or debit card information and Social security
5 numbers;

6 (5) Displaying fictitious or misleading names or telephone
7 numbers, or "spoofing", is the predominant means by which a robocaller
8 protects their identities and entices consumers to answer the telephone; and

9 (6) Spoofing is the gateway for illegal robocalls and scams.

10 (b) It is the intent of the General Assembly:

11 (1) To protect the citizens of this state from being spoofed by
12 receiving illegal robocalls from telemarketers and from others seeking to
13 perpetrate scams on unsuspecting or vulnerable citizens;

14 (2) To provide the citizens of this state who use a caller
15 identification service with accurate information about the identities and
16 locations of callers;

17 (3) To encourage telecommunications providers to swiftly
18 implement technologies that will allow telecommunications providers to
19 identify and stop illegal calling practices; and

20 (4) That this act be construed as broadly as possible to ensure
21 that the citizens of this state are protected from the negative impact of
22 illegal robocalls and to ensure that scammers and complicit
23 telecommunications providers are held criminally accountable.

24
25 SECTION 2. Arkansas Code § 4-88-107(a)(11), concerning displaying a
26 fictitious or misleading name or telephone number, is amended to read as
27 follows:

28 (11)(A) Displaying or causing to be displayed a fictitious or
29 misleading name or telephone number on an Arkansas resident's telephone
30 caller identification service.

31 (B) Subdivision (a)(11)(A) of this section does not apply
32 to the transmission of a caller identification service by a
33 telecommunications provider that complies with § 23-17-122.

34
35 SECTION 3. Arkansas Code § 4-88-108 is amended to read as follows:
36 4-88-108. Concealment, suppression, or omission of material facts.

1 (a) When utilized in connection with the sale or advertisement of any
2 goods, services, or charitable solicitation, the following ~~shall be~~ is
3 unlawful:

4 (1) The act, use, or employment by ~~any~~ a person of any
5 deception, fraud, or false pretense; ~~or~~

6 (2) The concealment, suppression, or omission of any material
7 fact with intent that others rely upon the concealment, suppression, or
8 omission;

9 (3) Displaying or causing to be displayed a fictitious or
10 misleading name or telephone number on an Arkansas resident's caller
11 identification service; or

12 (4) Using a third party to display or cause to be displayed a
13 fictitious or misleading name or telephone number on an Arkansas resident's
14 caller identification service.

15 (b) Subdivision (a)(3) of this section does not apply to the
16 transmission of a caller identification service by a telecommunications
17 provider that complies with § 23-17-122.

18
19 SECTION 4. Arkansas Code § 4-99-108(c), concerning information to be
20 provided to each prospective purchaser, is amended to read as follows:

21 (c)(1) ~~No telephonic seller under this section~~ A person making or
22 transmitting a telephone solicitation shall not display or cause to be
23 displayed a fictitious or misleading name or telephone number on an Arkansas
24 resident's telephone caller identification service.

25 (2) Subdivision (c)(1) of this section *does not apply* to the
26 transmission of caller identification service by a telecommunications
27 provider that complies with § 23-17-122.

28
29 SECTION 5. Arkansas Code § 4-99-302(b), concerning prohibitions as
30 used concerning caller identification blocking by telephonic sellers, is
31 amended to read as follows:

32 (b)(1) It is a violation of this subchapter for ~~any~~ a person making or
33 transmitting a telephone solicitation by any method to display or cause to be
34 displayed a fictitious or misleading name or telephone number on an Arkansas
35 resident's telephone caller identification service.

36 (2) Subdivision (b)(1) of this section *does not apply* to the

1 transmission of caller identification service by a telecommunications
2 provider that complies with § 23-17-122.

3
4 SECTION 6. Arkansas Code § 5-63-204(a)(1), concerning automated
5 telephone solicitation, is amended to read as follows:

6 (a)(1) It is unlawful for any person to use a telephone for the
7 purpose of offering any goods or services for sale, or for conveying
8 information regarding any goods or services for the purpose of soliciting the
9 sale or purchase of the goods or services, ~~or for soliciting information,~~
10 ~~gathering data, or for any other purpose in connection with a political~~
11 ~~campaign~~ when the use involves an automated system for the selection and
12 dialing of telephone numbers and the playing of recorded messages when a
13 message is completed to the called number.

14
15 SECTION 7. Arkansas Code § 5-63-204(b), concerning automated telephone
16 solicitation, is amended to read as follows:

17 (b) ~~Any A~~ person who violates ~~any provision of~~ this section upon
18 conviction is guilty of a ~~Class B misdemeanor and shall be punished~~
19 ~~accordingly~~ Class D felony.

20
21 SECTION 8. Arkansas Code Title 5, Chapter 63, Subchapter 2, is amended
22 to add an additional section to read as follows:

23 5-63-205. Misleading caller identification information – Exemptions –
24 Penalties.

25 (a) It is unlawful for a person, in connection with a
26 telecommunications service, to cause a caller identification service to
27 transmit misleading or inaccurate caller identification information if the
28 purpose is to defraud, cause harm, or wrongfully obtain anything of value.

29 (b) It is unlawful for a person, in connection with a
30 telecommunications service, to cause a caller identification service to
31 transmit misleading or inaccurate caller identification information unless
32 the person has verified that the caller has a right to use the name and the
33 phone number displayed.

34 (c) It is unlawful for a telecommunications service to permit or cause
35 a caller identification service or device to display the name or telephone
36 number of the recipient.

1 (d) It is unlawful for a person to use a third party to display or
2 cause to be displayed a fictitious or misleading name or telephone number on
3 an Arkansas resident's telephone caller identification service for any
4 purpose.

5 (e) This section does not prohibit:

6 (1) An authorized activity of a law enforcement agency;

7 (2) Any investigative, protective, or intelligence activity of a
8 law enforcement agency, including a law enforcement agency of the United
9 States, another state, or a political subdivision of another state, an
10 intelligence agency of the United States, or a protective services shelter or
11 facility, including without limitation a domestic violence shelter, from
12 transmitting or causing to be transmitted, an inaccurate telecommunications
13 number;

14 (3) A telecommunications service from blocking or restricting
15 the name or phone number from being displayed by caller identification
16 equipment or devices; or

17 (4) Any activity pursuant to a court order that specifically
18 authorizes the use of caller identification manipulation.

19 (f) A violation of this section is a Class D felony.

20
21 *SECTION 9. Arkansas Code Title 23, Chapter 17, Subchapter 1, is*
22 *amended to add an additional section to read as follows:*

23 23-17-122. Annual certification.

24 No later than June 30 annually, a telecommunications provider may seek
25 a determination by the Arkansas Public Service Commission that the
26 telecommunications provider has implemented current and applicable
27 technologies to identify and block telecommunications that violate § 4-88-
28 107(a)(1), § 4-88-108(a), § 4-99-108(c), or § 4-99-302(b), as applicable,
29 taking into consideration applicable state and federal laws, federal
30 regulations, and costs.

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32
33 /s/J. Dismang

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35 **APPROVED: 4/3/19**