

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: S3/20/19
A Bill

SENATE BILL 514

By: Senator J. Dismang
By: Representative Penzo

For An Act To Be Entitled

AN ACT TO REGULATE TELECOMMUNICATIONS SERVICE PROVIDERS AND THIRD-PARTY SPOOFING PROVIDERS; TO REQUIRE THAT A TELECOMMUNICATIONS SERVICE PROVIDER AND THIRD-PARTY SPOOFING PROVIDER ARE HELD ACCOUNTABLE FOR CERTAIN ACTIVITIES; TO IMPOSE CRIMINAL PENALTIES ON CERTAIN SPOOFING ACTIVITIES; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE TELECOMMUNICATIONS SERVICE PROVIDERS AND THIRD-PARTY SPOOFING PROVIDERS.

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

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

(a) The General Assembly finds that:

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

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

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



service;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) This section does not prohibit:

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

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

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

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

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

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

23-17-122. Annual certification.

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

/s/J. Dismang