SECOND REGULAR SESSION

HOUSE BILL NO. 1488

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PORTER.

AN ACT

To repeal sections 407.1095, 407.1098, 407.1101, 407.1104, and 620.2456, RSMo, and to enact in lieu thereof seven new sections relating to telecommunications, 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Section A. Sections 407.1095, 407.1098, 407.1101, 407.1104, and 620.2456, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 407.1095, 407.1098, 407.1101, 407.1104, 407.1115, 620.2456, and 620.2460, to read as follows:

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

1. "Business subscriber", a person who or an entity that, for business use, has subscribed to telephone service, wireless service, or other similar service;
2. "Call spoofing", the practice by a calling party or any caller identification service of knowingly transmitting misleading or inaccurate caller identification information with the intent to defraud, cause harm, harass, or wrongfully obtain anything of value;
3. "Caller identification service", a type of telephone service which permits telephone subscribers to see the telephone number of incoming telephone calls;
4. "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;

EXPLANATION — Matter enclosed in bold-faced brackets [brackets] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.
"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 business subscriber or residential subscriber with that subscriber's prior express invitation or permission;

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

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

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

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

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

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

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

407.1101. The attorney general shall establish and provide for the operation of a database to compile a list of telephone numbers of business subscribers and residential subscribers who object to receiving telephone solicitations. [Such list is not intended to include any telephone number primarily used for business or commercial purposes.]

2. The attorney general shall promulgate rules and regulations governing the establishment of a state no-call database as he or she deems necessary and appropriate to fully implement the provisions of sections 407.1095 to 407.1110. The rules and regulations shall include those which:

1) Specify the methods by which each business subscriber or residential subscriber may give notice to the attorney general or its contractor of his or her objection to receiving
such solicitations or revocation of such notice. There shall be no cost to the subscriber for
joining the database;

(2) Specify the length of time for which a notice of objection shall be effective and
the effect of a change of telephone number on such notice;

(3) Specify the methods by which such objections and revocations shall be collected
and added to the database;

(4) Specify that once a person gives notice of objection, the person shall not have
to renew his or her objection;

(5) Specify the methods by which any person or entity desiring to make telephone
solicitations will obtain access to the database as required to avoid calling the telephone
numbers of business subscribers or residential subscribers included in the database,
including the cost assessed to that person or entity for access to the database; and

(5) Specify such other matters relating to the database that the attorney general
deems desirable.

3. If the Federal Communications Commission establishes a single national database
of telephone numbers of subscribers who object to receiving telephone solicitations pursuant
to 47 U.S.C. Section 227(c)(3), the attorney general shall include that part of such single
national database that relates to Missouri in the database established pursuant to this section.

4. Information contained in the database established pursuant to this section shall be
used only for the purpose of compliance with section 407.1098 and this section or in a
proceeding or action pursuant to section 407.1107. Such information shall not be considered
a public record pursuant to chapter 610.

5. In April, July, October and January of each year, the attorney general shall be
encouraged to obtain subscription listings of business subscribers and residential
subscribers in this state who have arranged to be included on any national do-not-call list
and add those telephone numbers to the state do-not-call list.

6. The attorney general may utilize moneys appropriated from general revenue and
moneys appropriated from the merchandising practices revolving fund established in section
407.140 for the purposes of establishing and operating the state no-call database.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is
created under the authority delegated in sections 407.1095 to 407.1110 shall become effective
only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
section 536.028. This section and chapter 536 are nonseverable and if any of the powers
vested with the general assembly pursuant to chapter 536 to review, to delay the effective date
or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid
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) "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;

(2) "Caller", a person who or an entity that places a call, facsimile, or text message, whether by telephone or computer;

(3) "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;

(4) "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.

3. A caller commits the offense of caller identification spoofing if the caller:

(1) Enters or causes to be entered false information into a caller identification service with the intent to deceive, defraud, or mislead the recipient of a call to obtain anything of value; or

(2) Places a call knowing that false information was entered into the caller identification service with the intent to deceive, defraud, or mislead the recipient of the call.

4. The offense of unlawful caller identification spoofing shall be a class E felony.

5. This section shall not apply to:

(1) The blocking of caller identification information;

(2) Any law enforcement agency of the federal, state, county, or municipal government;
(3) Any intelligence or security agency of the federal government; or
(4) A communications service provider, including a telecommunications,
    broadband, or voice-over-internet service provider, that:
    (a) Acts in the communications service provider's capacity as an intermediary
        for the transmission of telephone service between the caller and the recipient;
    (b) Provides or configures a service or service feature as requested by the
        customer;
    (c) Acts in a manner that is authorized or required by applicable law; or
    (d) Engages in other conduct that is necessary to provide service.
6. The recipient of any call in which the caller uses false caller identification
    information shall have standing to recover actual and punitive damages against the
    caller. Punitive damages shall be in an amount determined by the court but not to
    exceed five thousand dollars per call. Call recipients may bring action under this section
    as members of a class. The attorney general may initiate legal proceedings or intervene
    in legal proceedings on behalf of call recipients and, if the caller is found guilty, shall
    recover all costs of the investigation and prosecution of the action.

620.2456. 1. The department of economic development shall not award any grant to
    an otherwise eligible grant applicant where funding from the Connect America Fund or
    Rural Digital Opportunity Fund has been awarded, where high-cost support from the
    federal Universal Service Fund has been received by rate of return carriers, or where any
    other federal funding has been awarded which did not require any matching-fund component,
    for any portion of the proposed project area, nor shall any grant money be used to serve any
    retail end user that already has access to wireline or fixed wireless broadband internet service
    of speeds of at least twenty-five megabits per-second download and three megabits per-
    second upload.
    2. No grant awarded under sections 620.2450 to 620.2458, when combined with any
    federal, state, or local funds, shall fund more than fifty percent of the total cost of a project.
    3. No single project shall be awarded grants under sections 620.2450 to 620.2458
    whose cumulative total exceeds five million dollars.
    4. The department of economic development shall endeavor to award grants under
    sections 620.2450 to 620.2458 to qualified applicants in all regions of the state.
    5. An award granted under sections 620.2450 to 620.2458 shall not:
    (1) Require an open access network;
    (2) Impose rates, terms, and conditions that differ from what a provider offers in other
        areas of its service area;
    (3) Impose any rate, service, or any other type of regulation beyond speed
        requirements set forth in section 620.2451; or
(4) Impose an unreasonable time constraint on the time to build the service.

6. If a grant recipient fails to establish the speed requirements set forth in section 620.2451, then the grant recipient shall return all grant moneys to the department.

620.2460. 1. Federal funds received by the state or a political subdivision, city, town, or village through the American Rescue Plan Act of 2021 or any other federally passed COVID-19 relief legislation appropriated specifically for the construction of broadband internet infrastructure shall be in or otherwise serve an "unserved area" or "underserved area", as such terms are defined in section 620.2450, and such project shall provide or support the provision of broadband internet service at speeds of at least twenty-five megabits per-second download and three megabits per-second upload, but that is scalable to higher speeds.

2. Prior to a political subdivision, city, town, or village authorizing an expenditure for the construction of broadband infrastructure, the office of broadband development shall certify that the project is located within an "unserved area" or "underserved area", as such terms are defined in section 620.2450.

3. When the office of broadband development receives a request from a political subdivision, city, town, or village to certify that a project is in an "unserved area" or "underserved area", as such terms are defined in section 620.2450, the office shall notify each internet service provider that offers service within the census block the project will be located prior to the certification of the project.

4. A broadband internet service provider that provides existing service within the census block the project will be located may submit to the department of economic development, within forty-five days of notification by the office of broadband development, a written challenge to an application. Such challenge shall contain information demonstrating that:

(1) The provider currently provides broadband internet service to retail customers within the proposed unserved or underserved area;

(2) The provider has taken affirmative steps to begin the process of construction to provide broadband internet service to retail customers within the proposed unserved or underserved area; or

(3) The provider has been designated funding through federal programs to support the deployment or expansion of broadband networks in the proposed unserved or underserved area.

5. Within five business days of the submission of a written challenge, the department of economic development shall notify the political subdivision, city, town, or village.
6. The department of economic development shall evaluate each challenge submitted under this section. If the department determines the challenge to be valid, the project shall not be considered to be in an "unserved area" or "underserved area", and the expenditure by the political subdivision, city, town, or village shall be prohibited. However, an area shall be considered an unserved or underserved area if the federal funding award supporting a challenge under subdivision (3) of subsection 4 of this section is forfeited or upon disqualification of the recipient entity awarded federal funding for that geographic area.