

Date of Hearing: June 19, 2019

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

SB 208 (Hueso) – As Amended April 23, 2019

SENATE VOTE: 32-5

SUBJECT: Consumer Call Protection Act of 2019

SUMMARY: Establishes the Consumer Call Protection Act of 2019 by requiring telecommunications service providers to implement Secure Telephony Identity Revisited (STIR) and Secure Handling of Asserted information using toKENS (SHAKEN) protocols by July 1, 2020. Specifically, **this bill:**

- 1) Requires each telecommunications service provider to implement SHAKEN/STIR protocols or similar standards to verify and authenticate caller identification (caller ID) for calls carried over an internet protocol (IP) network by July 1, 2020.
- 2) Designates the Attorney General and the California Public Utilities Commission (CPUC) as the appropriate state agencies for implementing the Truth in Caller ID Act within California and authorizes these agencies to exercise authority granted to states under the Truth in Caller ID Act.
- 3) Expressly authorizes the CPUC to work with the Attorney General to enforce the Truth in Caller ID Act within California.
- 4) Makes the following findings and declarations:
 - a) It is the policy of the state to encourage the fair treatment of telecommunications consumers and provide a process for the equitable resolution of service problems;
 - b) Consumers have experienced a rise in deceptive calls initiated by automatic dialing-announcing devices, commonly termed robocalls, aimed at defrauding telecommunications customers. According to the Federal Trade Commission, fraud generates the greatest number of consumer complaints on an annual basis, and 70 percent of these scams start with a telephone call; and,
 - c) The rise of these deceptive practices has negatively impacted Californians' telecommunications services and additional action is needed to identify those engaging in deceptive robocalls and protect Californians, especially vulnerable populations, from imposters using telecommunications to defraud consumers.

EXISTING LAW:

- 1) Prohibits a person from operating an automatic dialing-announcing device in this state to place a call that is received by a telephone in this state during the hours between 9 p.m. and 9 a.m. California time. (Public Utilities Code (PUC) Section 2872 (c))

- 2) Defines a “automatic dialing-announcing device” to mean any automatic equipment which incorporates a storage capability of telephone numbers to be called or a random or sequential number generator capable of producing numbers to be called and the capability, working alone or in conjunction with other equipment, to disseminate a prerecorded message to the telephone number called. (PUC Section 2871)
- 3) Exempts the prohibition on the use of an automatic dialing-announcing device by any person exclusively on behalf of any of the following:
 - a) A school for purposes of contacting parents or guardians of pupils regarding attendance;
 - b) An specified exempted bank or organization for purposes of contacting its members;
 - c) A privately owned or publicly owned cable television system for purposes of contacting customers or subscribers regarding the previously arranged installation of facilities on the premises of the customer or subscriber;
 - d) A privately owned or publicly owned public utility for purposes of contacting customers or subscribers regarding the previously arranged installation of facilities on the premises of the customer or subscriber or for purposes of contacting employees for emergency actions or repairs required for public safety or to restore services; or,
 - e) A petroleum refinery, chemical processing plant, or nuclear powerplant for purposes of advising residents, public service agencies, and the news media in its vicinity of an actual or potential life-threatening emergency. (PUC Section 2872 (d))
- 4) Specifies that nothing prohibit law enforcement agencies, fire protection agencies, public health agencies, public environmental health agencies, city or county emergency services planning agencies, or any private for-profit agency operating under contract with, and at the direction of, one or more of these agencies, from placing calls through automatic dialing-announcing devices, if those devices are used for any of the following purposes:
 - a) Providing public service information relating to public safety;
 - b) Providing information concerning police or fire emergencies; or,
 - c) Providing warnings of impending or threatened emergencies. (PUC Section 2872 (e))
- 5) Establishes rules for telephone solicitors in order to provide each prospective telephonic sales purchaser with information necessary to make an intelligent decision regarding the offer made, safeguard the public against deceit and financial hardship, insure, foster, and encourage competition and fair dealings among telephonic sellers by requiring adequate disclosure, and prohibit representations that tend to mislead. (Business and Professions Code (BPC) Section 117511, et seq.)
- 6) Defines a “telephonic seller” or “seller” to mean a person who, on his or her own behalf or through salespersons or through the use of an automatic dialing-announcing device, as specified, causes a telephone solicitation or attempted telephone solicitation to occur which meets the specified criteria’s. (BPC section 17511.1)

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) **Authors Statement:** According to the author, “Robocalls are the #1 consumer complaint in the nation. Despite attempts by federal agencies and Congress to prohibit illegal robocalls, the volume of illegal robocalls has increased. In 2017, Americans received over 30 billion robocalls, and experts estimate that between 30 and 40 percent of these calls were scams. While the Federal Communications Commission (FCC) has urged telecommunications providers to adopt a system for preventing illegal robocalls, the FCC has not taken action to set a date by which providers must implement these systems. SB 208 is needed to establish a date by which telecommunications providers must implement caller ID authentication systems to ensure that California can effectively enforce consumer protection laws and take steps to limit these fraudulent calls.”
- 2) **Background:** Caller ID services allow consumers to identify telephone numbers and sometimes the names associated with an incoming call in order for them to decide whether or not to answer the call based on the appearance of who is calling. Caller ID became possible beginning in the early 1980s when technology allowed information from voice signals to include caller ID information to travel across multiple phone carriers. Over time, caller ID has become common place especially with the use of mobile phones.

Current law establishes a number of requirements and restrictions on telemarketers and the use of robocalls. Robocalls are recorded messages delivered to phones by an automatic dialing-announcing device that stores thousands of telephone numbers and then dials them automatically and plays messages. Current law authorizes robocalls only between the hours of 9 a.m. and 9 p.m. California time. In addition, telephonic solicitors, or more commonly referred to as telemarketers, are required to register with the Attorney General by filing specified information and paying a fee in order to do business.

Although many consumers consider robocalls or telemarketers a nuisance, there are legitimate uses of such methods including, by schools to contact parents regarding a pupil’s attendance, a bank to contact its members, or a cable company or utility to contact its customers regarding a previously arranged appointment. Current law also exempts public safety agency from robocall requirements in order to provide public safety information and alerts.

- 3) **Spoofing:** As caller ID services have become more prevalent, so too has the manipulation of the technology for deceptive purposes. Spoofing is the act of altering or manipulating caller ID information in order to facilitate a call. Again there may be legitimate reasons why callers may wish to alter their caller ID information but in recent years the term has been more closely associated with calls made for malicious purposes, such as identify theft or false emergency situations. Whereas in the past spoofing required special equipment or a relatively high degree of sophistication, with the widespread availability of IP technology and the growth of third-party caller ID spoofing services, the number of malicious spoofing calls has increase dramatically in recent years.
- 4) **Complaints:** There has been numerous well-published example of spoofing including scammers targeting immigrant or undocumented communities with urgent calls regarding

legal trouble or fraudsters mimicking IRS employees in order to gather personal information. Common scams include: imposter scams; prizes, sweepstakes, and lotteries; travel, vacations, and timeshare plans; mortgage foreclosure relief and debate management; advanced payments for credit services; grants; charitable solicitations; and tax preparations.

In 2018, the FCC received over 52,000 consumer complaints about caller ID spoofing and issued over \$200 million in fines. One report by Hiya, a spam monitoring service, found that in 2018 roughly 26.3 billion robocalls were placed to US phone numbers, but many illegal robocalls likely go unreported. In 2009, Congress passed the Truth in Caller ID Act which prohibited spoofing with the intent to defraud, cause harm, or wrongly obtaining anything of value. However, with all the attention tracking down such scammers has proven to be difficult due to the tremendous volume of spoofing calls being made and the difficulties in identifying their location, which often can originate from abroad. The volume of illegal spoofed calls is reducing the value of telephony as more individuals are giving up voice telephony altogether. In addition, illegal spoofed calls can pose a risk to public safety by tying up emergency lines where the calls are made to public safety entities.

- 5) **SHAKEN/STIR:** SHAKEN/STIR is an industry developed system that addresses unlawful spoofing by authenticate caller ID numbers by confirming that a call is actually coming from the number indicated on the caller ID. SHAKEN/STIR uses computer programming to attached a digital signature on calls as they travel through the interconnected phone networks. Calls that are digitally validated by SHAKEN/STIR are handed off between carriers so that the phone company of the consumer receiving the call is able to verify that a call is from the person making it. Although caller ID authentication by itself will not stop all illegal spoofing calls, it is a useful tool in filtering out illegal robocalls and reducing the likelihood of successful spoofing scams.
- 6) **FCC Actions:** The FCC has called on the telecommunications industry to adopt SHAKEN/STIR and most major phone companies have committed to doing so. Some of the major telecommunications service providers have already made significant progress, although some providers are implementing SHAKEN/STIR at a faster rate than others. Arguably the ability to implement such standards is achievable. According to the FCC:

“Comcast, AT&T, and T-Mobile, [...] have announced that they are already exchanging SHAKEN/STIR-signed traffic on a bilateral basis. Furthermore, AT&T has expressed its intention to exchange signed calls with multiple voice service providers by the end of the third quarter of 2019. Comcast expects to be able to indicate to end users whether a call is signed by the end of the third quarter of 2019. Cox Communications is transitioning its residential customer base to a new IP Multimedia Subsystem platform throughout 2019, which will include the capability for deployment of the SHAKEN/STIR solution. T-Mobile announced it was ready as of November 2018 to implement SHAKEN/STIR. Verizon has stated that the majority of its calls will be signed under the SHAKEN/STIR standard during 2019. And Charter has said that it will be able to sign and verify calls on its network by the end of this year.”

No mandatory timeline has been established for implementing SHAKEN/STIR but the FCC has established a voluntary deadline of the end of 2019. In June 2019, the FCC adopted a Notice of Proposed Ruling that proposes requiring telecommunications service providers to

implement the SHAKEN/STIR if they failed to do so by the end of 2019. The FCC stated that it remained optimistic that through their voluntary efforts, major telecommunications service providers will be able to deploy SHAKEN/STIR by the end of the year, but should they be unable to, the FCC would be in position to adopt an order and final rules to mandate action should voluntary adoption be delayed.

This bill establishes a timeline for the adoption of SHAKEN/STIR by requiring each telecommunications provider to implement SHAKEN/STIR or similar standards to verify and authentic caller ID for calls by July 1, 2020. The author argues that setting a deadline for implementation in California may encourage providers to ensure that they are implementing caller ID authentication in a timely manner. In addition, the bill designates the CPUC and the Attorney General as the appropriate state agencies for implementing and enforcing the Truth in Caller ID Act. If the FCC does adopt regulatory timelines for the adoption of SHAKEN/STIR down the road, it is most likely that the timeline aspect of this bill would be preempted, however, until the FCC does so, establishing a mandatory timeline would expedite the implementation of such standards that can be instrumental in effectively combating the growing number of illegal caller ID spoofing scams.

- 7) **Arguments in Support:** According to the Consumer Federation of California, “Robocalls are an avenue through which scammers are increasingly conducting fraudulent activities [...] Imposter, debt collection, and identity theft phone scams are prevalent, often targeting vulnerable communities like the elderly or immigrants. These scams often involve neighborhood spoofing, impersonating the area code of a local caller, which increases the likelihood that people will answer. This bill will help bring an end to these phone scams by ensuring that providers are implementing call verification protocols that already exist, and that the [FCC] recommends. It is time that California begin to protect consumers from these harmful and distracting calls.”
- 8) **Arguments in Opposition:** According to CTIA, “We [...] oppose SB 208 as it would create a patchwork of state laws and enforcement on a matter that is a quintessential federal issue. Wireless carriers should be permitted to continue to focus on the important task at hand – implementing STIR/SHAKEN. Neither the [CPUC] nor the Attorney General is equipped to enforce laws dealing with robocalls. SB 208 will not hasten the process of implementing appropriate and necessary authentication technology. It will divert attention and focus from that task and add a layer of CPUC regulation that is often obtuse and whose processes are lengthy and, certainly in this case, unnecessary.”
- 9) **Related Legislation:** AB 1132 (Gabriel) of 2019 prohibits an individual from using false government information in a caller ID system with the intent to mislead, cause harm, deceive, or defraud the recipient of a call. *Status: Pending in the Senate Committee on Energy, Utilities, and Communications.*
- 10) **Double-referral:** This bill is double referred, and if passed by this Committee, will be referred to the Assembly Committee on Privacy and Consumer Protection.

REGISTERED SUPPORT / OPPOSITION:

Support

Area Agency on Aging Advisory Council
California Alliance for Retired Americans
CalSmallBiz
Consumer Federation of California
Greenlining Institute
Imperial Irrigation District
Media Alliance
Public Advocates Office
The Utility Reform Network

Opposition

AT&T
California Cable & Telecommunications Association (unless amended)
California Chamber of Commerce
Consolidated Communications
CTIA-The Wireless Association
Frontier Communications Corporation
Sprint Corp
T-Mobile
TechNet
Tracfone
Verizon Communications

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