

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 1132 (Gabriel) – As Amended March 25, 2019

SUBJECT: Telecommunications: caller identification fraud

SUMMARY: Prohibits an individual from using false government information in a caller identification system with the intent to mislead, cause harm, deceive, or defraud the recipient of a call. Specifically, **this bill:**

- 1) Prohibits a caller from entering, or cause to be entered, false government information into a caller identification system with the intent to mislead, cause harm, deceive, or defraud the recipient of the call.
- 2) Prohibits a person or entity from making a call knowing that false government information was entered into the caller identification system with the intent to mislead, cause harm, deceive, or defraud the recipient of the call.
- 3) Specifies that this bill does not apply to any of the following:
 - a) The blocking of caller identification information;
 - b) Any law enforcement agency of the federal government or a state or local government;
 - c) Any intelligence or security agency of the federal government; and,
 - d) A telecommunications, broadband, or interconnected VoIP service provider that is acting solely as an intermediary for the transmission of telecommunications service between the caller and the recipient.
- 4) Specifies that any person or entity who knowingly violates this bill shall be subject to a civil penalty of up to \$10,000 for each violation.
- 5) Specifies that an action to enforce this bill may be brought by a city attorney, district attorney, or the Attorney General.
- 6) Requires the California Public Utilities Commission, if during the investigation of a complaint for possible specified violations, it determines that a violation of this bill may have occurred, to notify both the district attorney of the county where the call was received and the Attorney General of the potential violation.

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, "While there are legitimate reasons for spoofing certain types of calls, a call identifying itself as coming from a government entity is inherently misleading. The practice has been used to imbue the call with the appearance of authority, increase the likelihood someone answers the call, and defraud unsuspecting consumers."
- 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 dial 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 includes paying a fee in order to do business.

Although many consumers consider robocalls or telemarketers a nuisance, there are legitimate uses of such methods such as, 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, 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 VoIP technology and the growth of third-party caller ID spoofing services has resulted in the number of spoofing calls increase dramatically in recent years.

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. If consumers have complaints about spoofing, robocalls, or telemarketers; in addition to including their number in the National Do Not Call Registry, they can file complaints with the Federal Communications Commission (FCC) or the Federal Trade Commission. 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. 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.

- 4) **Complaints and Enforcement:** There has been numerous well-published example of spoofing in recent years including scammers targeting immigrant or undocumented communities with urgent calls regarding legal trouble or fraudsters mimicking IRS employees in order to gather personal information. In March 2019, the Sacramento County Sheriff's Department reported that residents were receiving phone calls from scammers posing as sheriff's employees demanding money. In addition, the act of neighborhood spoofing, in which a scammer spoofs a phone number to match the recipients area code and phone number, in order to increase the likelihood of the recipient answering the phone shows the level of sophistication such scams have reached.

This bill prohibits an individual from using false government information in a caller identification system with the intent to mislead, cause harm, deceive, or defraud the recipient of a call.

- 5) **Arguments in Support:** According to the Consumer Federation of California, the sponsor of the bill, "Misrepresenting caller ID information has become ubiquitous and poses significant risks to call recipients. New smartphone applications and websites have made spoofing as easy as typing in the phone number you would like your call to impersonate. This ease of use has allowed for widespread fraud and deception to take place, with nefarious callers and companies impersonating legitimate governmental entities [...] Spoofing activities have increased to the point that State Attorneys General from across the country have called on the FCC to strengthen current rules. It is time that California begin to protect consumers from these harmful and distracting calls."
- 6) **Related Legislation:** SB 208 (Hueso) of 2019 requires a telecommunications service provider to implement specified protocols to verify and authenticate caller identification for calls over an internet protocol network. *Status: Pending in the Senate Committee on Judiciary.*
- 7) **Double-referral:** This bill is double referred, and if passed by this Committee, will be referred to the Assembly Committee on Judiciary.

REGISTERED SUPPORT / OPPOSITION:

Support

Consumer Federation of California (sponsor)
 Riverside Sheriffs' Association
 The Utility Reform Network

Opposition

None on file.

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