

Amended Mock-up for 2019-2020 AB-3007 (Chau (A))

**Mock-up based on Version Number 98 - Amended Assembly 5/4/20
Submitted by: Staff Name, Office Name**

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2871 of the Public Utilities Code is amended to read:

2871. (a) As used in this article, “automatic dialing-announcing device” means any automatic equipment that does any of the following:

(1) Stores telephone numbers and automatically calls, or automatically sends text messages to, telephone numbers taken from those stored telephone numbers, without significant human involvement in the act of calling or sending.

(2) Generates telephone numbers in a random or sequential order and calls, or sends text messages to, telephone numbers taken from the telephone numbers generated, without significant human involvement in the act of calling or sending.

(3) Makes telephone calls or sends text messages that otherwise include artificial or prerecorded voice or prewritten text messages.

(b) It is the intent of the Legislature that “automatic dialing-announcing device” be interpreted so as to prevent the exclusion of automatic equipment designed to evade the requirements of this article.

SEC. 2. Section 2872 of the Public Utilities Code is amended to read:

2872. (a) The connection of automatic dialing-announcing devices to a telephone line is subject to this article and to the jurisdiction, control, and regulation of the commission.

(b) A person shall not operate an automatic dialing-announcing device except in accordance with this article. The use of such a device by any person, either individually or acting as an officer, agent, or employee of a person or corporation operating automatic dialing-announcing devices, is subject to this article.

(c) A person shall not operate 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.

(d) This article does not prohibit the use of an automatic dialing-announcing device by any person exclusively on behalf of any of the following:

(1) A school for purposes of contacting parents or guardians of pupils regarding attendance.

(2) An exempt organization under the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code) for purposes of contacting its members.

(3) 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.

(4) 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.

(5) 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.

(e) (1) This article does not 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.

(C) Providing warnings of impending or threatened emergencies.

(D) Testing all modes of 911 emergency telephone systems, including basic 911 telephone services as described in Section 53107 of the Government Code, enhanced 911 emergency telephone services as described in Section 53119 of the Government Code, Next Generation 911 emergency communication systems as described in Section 53121 of the Government Code, and similar 911 technologies, for data accuracy and emergency alert notification system capabilities.

(2) Calls authorized by this subdivision shall not be subject to Section 2874.

(f) The commission may determine any question of fact arising under this section.

SEC. 3. Section 2873 of the Public Utilities Code is amended to read:

2873. (a) Automatic dialing-announcing devices may be used to place calls over telephone lines only pursuant to a prior agreement between the persons involved, whereby the person called has expressly consented to receive such calls from the person calling, or as specified in subdivision (b) and Section 2874. A person's consent may be revoked at any time and in any reasonable manner, regardless of the context in which the consent was provided.

(b) A telephone call, using an automatic dialing-announcing device, made to a telephone number selected from stored numbers obtained from a list of registered voters, to immediately connect the recipient of the call with a person waiting to be connected for a live-voice communication regarding the recipient's plans to vote in a federal, state, or local election, shall be presumed to have the consent of the recipient, provided that the recipient, or the person to whom the number has been assigned, may easily revoke consent by any reasonable means in accordance with this section.

SEC. 4. Section 2875.5 of the Public Utilities Code is amended to read:

2875.5. (a) On and after July 1, 2002, a person operating an automatic dialing-announcing device shall not make a telephone connection for which no person, acting as an agent or telemarketer, is available for the person called.

(b) Notwithstanding subdivision (a), the commission shall establish an acceptable error rate for telephone connections made in violation of subdivision (a). The commission shall determine the error rate, if any, before July 1, 2002.

(c) The commission may require any person operating an automatic dialing-announcing device to maintain records of telephone connections made for which no person, acting as an agent or telemarketer, is available for the person called. The commission may require copies of those records to be submitted to the commission.

~~**SEC. 5.** Section 2882 is added to the Public Utilities Code, to read:~~

~~**2882.** (a) Each telephone corporation that provides telephone service to customers residing in the state shall make call mitigation technology available to any such customer, upon request, and at no additional charge. The telephone corporation shall also offer to the customer an option to have the telephone corporation prevent calls and text messages originating from a particular source from being completed to the customer, upon request, and at no additional charge.~~

~~(b) The commission shall implement the requirements of this section.~~

~~(c) The commission may do either of the following:~~

~~(1) Reasonably delay the imposition of this section's requirements for good cause and taking into account the consumer protection purposes of this section.~~

~~(2) Establish procedures for addressing incidents in which a call that was wanted by a customer is prevented from reaching the customer.~~

~~(d) (1) A person harmed by a violation of this section, or of the rules established by the commission pursuant to this section, may bring an action in a court of competent jurisdiction to do one or both of the following:~~

~~(A) To enjoin such a violation.~~

~~(B) To recover any actual monetary loss from, or receive five hundred dollars (\$500) in damages for, such a violation, whichever is greater.~~

~~(2) If a court finds that a defendant willfully or knowingly violated this section, or the rules established by the commission pursuant to this section, the court may, in its discretion, increase the amount of the monetary damages awarded to an amount equal to not more than three times the amount available pursuant to paragraph (1).~~

~~(e) An action to recover damages for a violation of this section, or the rules established by the commission pursuant to this section, shall not be brought more than four years after the alleged violation occurred.~~

~~(f) For purposes of this section, "call mitigation technology" means technology that identifies an incoming call or text message as being, or as probably being, from an automatic dialing-announcing device as defined in Section 2871, and, on that basis, blocks the call or message, diverts it to the called person's answering system, or otherwise prevents it from being completed to the called person, except that it permits a call or text so identified to be completed when it is identified as being made by a law enforcement or public safety entity, or when it is identified as originating from a caller with respect to whom the called person has provided prior express consent to receive such a call or message and has not revoked that consent.~~

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.