

SOMEONE OR SHOULD I SAY SOME STATES HAVE BEEN BUSY: See Who is Passing New Telemarketing Bills and Who is Only at the Introduction Stage

Article By:

Angelika Munger

Because it has been a while and because it is Friday why don't we start the weekend with a nice big glass of state telemarketing bills? A few updates on the telemarketing state law front, read on to hear all the fun.

Maine just passed on Tuesday a bill in both the House and Senate that will require telemarketers to scrub the Reassigned Numbers Database prior to placing a telephone sales call to a consumer! Next steps we await for it to be signed by the Governor of Maine. This will be a first at the state level to be required to scrub the RND.

Wisconsin passed SB531 which was delivered to the Governor yesterday and is awaiting to be signed. This act is centered around caller ID requirements and adds the definition of "Caller identification record", provides an exemption for law enforcement, and provides a penalty from \$100 to 10K per each violation.

PROHIBITION. Except as provided in sub. (3), no person may, in connection with any telecommunications service, knowingly transmit a misleading or inaccurate caller identification record with the intent to defraud or wrongfully obtain anything of value, including personally identifiable information

Moving on to **Illinois** has a few bills floating around, two that have been introduced in the House and one that may have come back to life in the Senate from last year. HB5593 reminds me of the bill that passed last year in New Jersey where agents have to disclose the mailing address and the business on websites and written communications.

HB5593 – Amends disclosure requirements for live operators soliciting the sales of goods or services.

HB5566 – Amends call limits to 3 per 24-hour period, Caller ID, and adds registration requirements.

SB0160 – Amends to include requirements around Caller ID spoofing, automated disclosure requirements, and compliance with TSR

Iowa has a new bill that was introduced in the Senate SF2239, and I know what you are thinking Iowa is the one state that doesn't really have telemarketing rules and that is true kind of but they **do** have consumer protection regulations and steep civil penalties. With the current law if you are found to have been deceptive/unfair/misrepresent/omission of material facts with connection to a sale, lease, advertisement, or solicitation of contributions for a charity you already face a 40K fine per violation, however with the new bill adds clarifying language "made over the telephone" and cranks the civil penalties **up to 80K**. Dang!

Missouri is coming in strong on the business front of things with three bills that have been introduced all have a focus on strengthening regulation around telephone solicitation to businesses. HB2603 not only focuses on adding business to the do-not-call list but also adds a new act "Caller ID Anti-Spoofing Act" which adds definitions and punitive damages for calls received under false caller identification up to 5k per call.

HB 1932 (HB 2353, HB2188)– Would allow businesses to be added to the no-call list.

HB 2603 – Creates the "Caller ID Anti-Spoofing Act" to protect businesses and residents from unwanted solicitations from misleading or misidentified solicitors

SB 963 – Creates provisions relating to telephone solicitations to businesses

New Jersey has quite the roster of bills that have been introduced three around caller ID, one that is to create a task force to reduce or eliminate telemarketing harassment and intimidation, and the final one, A1437, requires telecommunications service providers to make available to subscribers' telephone mitigation technology at no additional cost but if you take a close look you will also see that it is amending some pretty substantial definitions. Some might be similar to the Do Not Disturb Act that is in Congress amending the TCPA.

"Autodialed telephone call" means:

1. a telephone call made using equipment that makes a series of telephone calls to stored telephone numbers, including numbers stored on a list, or to telephone numbers produced using a random or sequential number generator, except that the term does not include a telephone call made using only equipment that the caller demonstrates **requires substantial additional human intervention** to dial or place a telephone call after a human initiates the telephone call or series of telephone calls;
2. a telephone call made using an artificial or prerecorded voice message; or
3. a text message made using equipment that issues or more text messages at a time, or sends a series of nearly identical texts to telephone numbers on a list, or to telephone numbers produced using a random or sequential number generator, except that the term does not include texts that the sender demonstrates were sent to the sender's personal acquaintances.

And check out the amendments made to the definition of "No telemarketing call list" additions made are underlined and it looks as if passed manual calls may no longer be allowed to residents of NJ who are on the DNC.

"No telemarketing call list" or "no call list" means a list of telephone numbers of customers in this State who desire not to receive unsolicited telemarketing sales calls whether the telemarketer is a human initiating an unsolicited telemarketing sales call or the telemarketer uses another means of

making an unsolicited telemarketing sales call, including, but not limited to, making an autodialed telephone call

A3783 – Prohibits certain caller identification service manipulation and provides additional penalties.

SB 1237 (AB 2635, A1034, S1484)- Requires telemarketers making sales calls to display their name and telephone number on any caller identification service.

S837 (A1559, S1858, A4599) – Establishes a task force to study technology and other methods used to reduce or eliminate telemarketing harassment and intimidation.

AB 690 (A269) – Prohibits manipulation of certain caller identification information.

A1437 – requires telecommunications service providers to make available to subscribers telephone mitigation technology at no additional cost.

New York the big shake-up coming out of NY is S1536 amending section 399-p with the “robocall prevention act” which similar to the NJ seems as if it only requires the telephone service provider to offer free call mitigation tools by read of the summary but if you open the hood there is more there. Amending and adding substantial definitions, caller ID requirements, increasing penalties, and allowing class actions.

Amends “automatic dialing announcing device” to “automatic dialing device” means equipment that makes a series of calls to stored telephone numbers, including numbers stored on a list, except for equipment that requires a human to dial or place each individual call one call at a time, and requires such human to then remain on each call

Adds the definition (f) “robocall” means a call made, including a text message sent, to any telephone number owned by a person or entity in the state:

(1) using an automatic dialing device; or (

2) using an artificial or prerecorded voice;

Adds the definition (h) “prior express consent” for a call means that the purpose of the call must be closely related to the purpose for which the telephone number was originally provided by the called party. A call by a non-profit organization which is federally tax exempt pursuant to 26 U.S.C. 501(c), to a member who had joined such organization or to the household of such a member, is presumed to be closely related. A customer’s prior express consent can be revoked by the customer at any time in any reasonable manner, regardless of the context in which the owner or user of the telephone provided consent;

The term robo-call replaces the use of “ automatic dialing announcing device” throughout the statute. Violations of caller ID requirements will bring a civil penalty from 5K- 10k for each violation.

The other bill out in NY that if passed would call for big changes is S1735 which relates to pre-recorded political messages and would require the following actions:

7. (a) no person or political committee shall deliver or knowingly cause to be delivered using an automatic dialing-announcing device a pre-recorded political message unless a live operator

provides, within the first thirty seconds of the message the following information:

8. the name of the candidate or of any organization or organizations the person is calling on behalf of; and
9. the name of the person or organization paying for the delivery of the message and the name of the treasurer of any such committee.

(b) a copy of all such scripts and schedules of such calls shall be filed with the New York State Board of Elections pursuant to article fourteen of the election law within twenty-four hours of such calls being made.

(c) any person or political committee operating an automatic dialing- announcing device or placing any consumer telephone calls or pre-recorded political messages shall register with the secretary of state as well as the New York State Board of Elections.

S8182 (A07939) – Requires telemarketers to provide certain information within the first thirty seconds of a call and to disclose their address online and in written communication to customers.

A2731 – Prohibits unsolicited telemarketing sales calls using an automatic dialing-announcing device.

S00412 (A06680) – Clarifies the prohibitions of unsolicited telemarketing sales calls during certain declared states of emergency.

SB1536 – Limits robocalls to state residents and requires telephone service providers to offer free call mitigation technology to telephone customers.

SB4214 – Relates to increasing fines for certain telemarketing violations. (misleading caller ID – 25K per violation)

S01769 – Requires telemarketers to add a customer's telephone number to all do-not-call lists maintained by such telemarketers.

SB1735 – Relates to pre-recorded political messages.

Tennessee and **West Virginia** have bills related to caller ID.

TN HB2504 (SB2410) – Relative to caller identification spoofing.

WV HB5228 – The purpose of this bill is to require that telemarketers' telephone calls include the area code and correct point of origin that appear on the potential consumer's caller I.D.

Lots to go over here, great read for the weekend, no? I will let you know once Maine and Wisconsin are officially official and keep tabs on the rest of these bills are they rise to the top or die on the floor!

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National Law Review, Volume XIV, Number 82

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