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AB-1132 Telecommunications: caller identification fraud. (2019-2020)

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Assembly Bill No. 1132

CHAPTER 452

An act to add Section 2893.2 to the Public Utilities Code, relating to telecommunications.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1132, Gabriel. Telecommunications: caller identification fraud.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law, with specified exceptions, directs the commission to require any call identification service offered by a telephone corporation, or by any other person or corporation that makes use of the facilities of a telephone corporation, to allow the caller to withhold, on an individual basis, the display of the caller's telephone number from the telephone instrument of the individual receiving the call. However, existing law prohibits a caller from withholding the display of the caller's business telephone number when that number is being used for telemarketing purposes.

Existing federal law, the Truth in Caller ID Act of 2009, with certain exceptions, makes it unlawful for any person within the United States, in connection with any telecommunications service or internet protocol enabled voice service, to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value.

This bill would prohibit a caller from entering, or causing 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. The bill would prohibit 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. The bill would make the violation of these prohibitions subject to a civil penalty of up to \$10,000 for each violation. The bill would authorize a city attorney, district attorney, or the Attorney General to bring an action to enforce the bill's prohibitions and, if in investigating a complaint over the unlawful use of an automatic dialing announcing device the commission determines that a violation of these prohibitions may have occurred, the bill would require the commission to give notice of the potential violation to the district attorney for the county in which the call was received and to the Attorney General. The bill would provide that its requirements and remedies are in addition to any other applicable law prohibiting the same or similar activity.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The term “spoofing” refers to the practice of using fake caller identification information to disguise the caller's identity from the recipient of the call. Although there are legitimate uses of spoofing, such as the protection of the identity of a victim of domestic violence, scammers frequently engage in this practice in order to defraud people or trick them into giving out personal information.

(b) A particularly pernicious form of spoofing is the use of caller identification information that presents the caller as being from the government. Whether federal, state, or local government, this form of spoofing exploits the trust and authority vested in the government, increasing the likelihood that the recipient is victimized and undermining public confidence in government.

(c) The state has an interest in protecting the reputation, integrity, and efficacy of its institutions, including local governments, as well as an interest in preserving reliable channels for residents of the state to access resources and protections provided by the federal government. The state also has an interest in protecting the public's trust in government at all levels.

(d) Furthermore, there is no legitimate reason for private parties to present themselves as government actors. This form of spoofing is solely intended to prey upon the unsuspecting public by harassing or defrauding individuals, or by acquiring their personal information under fraudulent pretenses.

(e) Therefore, spoofing that misrepresents the caller as being from the government is always improper, is solely intended to defraud or harm the recipient of the call, and is highly likely to result in actual harm to the recipient, to the government, and to the relationship between the government and the people it serves. Consequently, consistent with the federal Truth in Caller ID Act of 2009 (Public Law 111-331, adding subsection (e) of Section 227 of Title 47 of the United States Code), the state may regulate this type of harmful spoofing.

SEC. 2. Section 2893.2 is added to the Public Utilities Code, to read:

2893.2. (a) For purposes of this section, the following terms have the following meanings:

(1) “Call” means the initiation of telecommunications service by accessing a number issued pursuant to the North American Numbering Plan, irrespective of whether the call is initiated using a traditional landline over the public switched telephone network, using mobile telephony service, or using interconnected VoIP service network.

(2) “Caller” means a person or entity that places a call.

(3) “Caller identification information,” “caller identification service,” “information regarding the origination,” and “interconnected VoIP Service” have the same meanings as defined in Section 64.1600 of Title 47 of the Code of Federal Regulations as of January 1, 2019.

(4) “Enter” means to input data by whatever means into a computer or telephone system.

(5) “False government information” means caller identification information that misrepresents the identity of the caller to the recipient of a call, or to the network itself, by presenting information regarding the origination of the call as being from the federal government, state government, a local government, or any agent thereof.

(6) “Federal government” means the United States, or any agency or instrumentality of the United States.

(7) “Local government” means any city, city and county, county, public district, public corporation, authority, agency, board, commission, or other public entity in the state.

(8) “Phone number” means an access number issued pursuant to the North American Numbering Plan.

(9) “Telecommunications” and “telecommunications service” have the same meanings as defined in Section 153 of Title 47 of the United States Code as of January 1, 2019.

(b) (1) A caller shall not enter, 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) A person or entity may not make 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.

(c) This section does not apply to any of the following:

(1) The blocking of caller identification information.

(2) Any law enforcement agency of the federal government or a state or local government.

(3) Any intelligence or security agency of the federal government.

(4) 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.

(d) Any person or entity that violates this section may be enjoined in any court of competent jurisdiction.

(e) (1) Any person or entity that knowingly violates this section shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) for each violation.

(2) An action to enforce this section may be brought by a city attorney, district attorney, or the Attorney General.

(3) If during the investigation of a complaint for possible violation of Article 1 (commencing with Section 2871), the commission determines that a violation of this section may have occurred, the commission shall notify both the district attorney of the county where the call was received and the Attorney General of the potential violation.

(4) This section shall apply in addition to any other applicable law prohibiting the same or similar activity.

(f) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.