

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4150

**FISCAL
NOTE**

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DEAN, LYNCH, HAMRICK, WARD, ATKINSON, QUEEN AND
MAYNARD

[Introduced January 16, 2018; Referred
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §24-2-20; to amend and reenact §46A-6F-601; and to amend said code by
 3 adding thereto a new section, designated §61-3-59, all relating to prohibiting
 4 telecommunications and IP-enabled voice services from displaying the name or telephone
 5 number of the recipient; requiring those calls be automatically blocked; prohibiting
 6 telemarketing companies from transmitting misleading or inaccurate caller identification
 7 information; creating a felony of knowingly transmitting misleading or inaccurate caller
 8 identification information in certain circumstances; and creating exemptions and criminal
 9 penalties.

Be it enacted by the Legislature of West Virginia:

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-20. Telecommunications.

1 Beginning January 1, 2019, no telecommunications service or IP-enabled voice service
 2 may permit a telephone or IP-enabled voice communication call to cause any caller identification
 3 service or device to display the name or telephone number of the recipient and the
 4 telecommunication service or IP-enabled voice service provider shall be required to automatically
 5 block all calls displaying the name or number of the recipient.

**CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND
 PROTECTION ACT.**

ARTICLE 6F. TELEMARKETING.

PART VI. ABUSIVE ACTS OR PRACTICES; PENALTIES.

§46A-6F-601. Abusive acts or practices.

1 (a) It is an abusive telemarketing act or practice and a violation of this article for any
 2 telemarketer to engage in the following conduct:

3 (1) Threaten, intimidate or use profane or obscene language;

4 (2) Engage any person repeatedly or continuously with behavior a reasonable person
5 would deem to be annoying, abusive or harassing;

6 (3) Initiate an outbound telephone call to a person when that person previously has stated
7 that he or she does not wish to receive an outbound telephone call made by or on behalf of the
8 telemarketer whose goods or services are being offered;

9 (4) Engage in telemarketing to a person's residence at any time other than between eight
10 a.m. and nine p.m. local time, Monday through Sunday, at the called person's location; or

11 (5) Engage in transmission of misleading or inaccurate caller identification information; or

12 ~~(5)~~ (6) Engage in any other conduct which would be considered abusive to any reasonable
13 consumer.

14 (b) A telemarketer will not be liable for violating subdivision (3), subsection (a) of this
15 section if:

16 (1) It has established and implemented written procedures to avoid outbound telephone
17 calls to persons who have previously stated that they do not wish to receive such calls;

18 (2) It has trained its personnel in the procedures established pursuant to subdivision (1)
19 of this subsection;

20 (3) The telemarketer has maintained and recorded lists of persons who have previously
21 stated that they do not wish to receive such calls; and

22 (4) Any subsequent call is the result of error.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-59. Misleading caller identification information; exemptions; penalties.

1 (a) It is unlawful for any person, in connection with any telecommunications service or IP-
2 enabled voice service, to cause any caller identification service to knowingly transmit misleading

3 or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully
4 obtain anything of value.

5 (b) It is unlawful for any person, in connection with any telecommunications service or IP-
6 enabled voice service, to cause any caller identification service to knowingly transmit misleading
7 or inaccurate caller identification information unless the name displayed is owned or operated by
8 an employer, employee, client, contractor, or agent and the phone number displayed is owned or
9 operated by an employer, employee, client, contractor, or agent.

10 (c) This section does not prohibit any authorized activity of a law-enforcement agency or
11 pursuant to a court order that specifically authorizes the use of caller identification manipulation
12 does not constitute a violation of this section. This section also does not prohibit any lawfully
13 authorized investigative, protective, or intelligence activity of a law-enforcement agency of the
14 United States, a state, or a political subdivision of a state, of an intelligence agency of the United
15 States, or any protective services shelters or facilities, such as but not limited to, domestic
16 violence shelters, from transmitting or causing to be transmitted, an inaccurate
17 telecommunications number.

18 (d) This section does not prohibit any telecommunications service or IP-enabled voice
19 service from blocking or restricting the name or phone number from being displayed by caller
20 identification equipment or devices.

21 (e) Any person who violates any provision of this section is guilty of a felony, and upon
22 conviction, shall be confined in a state correctional facility for not less than one year nor more
23 than ten years, or, in the discretion of the court, be confined in jail not more than one year and be
24 fined not more than \$2,000.

NOTE: The purpose of this bill is to prohibit spoofing caller ID information that is fraudulent or misleading, with exceptions and criminal penalties.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.