



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1475

Introduced 2/13/2019, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

815 ILCS 305/5	from Ch. 134, par. 105
815 ILCS 305/15	from Ch. 134, par. 115
815 ILCS 305/30	from Ch. 134, par. 130

Amends the Automatic Telephone Dialers Act. Redefines "recorded message" to mean any artificial or recorded communication that includes or introduces an advertisement or constitutes telemarketing without live voice interaction (rather than any taped communication soliciting the sale of goods or services without live voice interaction). Prohibits an autodialer from providing inaccurate caller ID information in violation of a specified federal law and regulations of the Federal Communications Commission. Provides that it is a violation of the Act to play a recorded message (rather than a prerecorded message) placed by an autodialer without (i) the prior express written consent of the called party or (ii) the prior express written consent of the called party if the call is made by or on behalf of a tax-exempt nonprofit organization or is a call that delivers a health care message made by, or on behalf of, a covered entity or its business associate as those terms are defined in a specified provision of the Health Insurance Portability and Accountability Act of 1996. Defines "telemarketing" and "prior written consent".

LRB101 09469 JLS 54567 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Automatic Telephone Dialers Act is amended
5 by changing Sections 5, 15, and 30 as follows:

6 (815 ILCS 305/5) (from Ch. 134, par. 105)

7 Sec. 5. Definitions. For purpose of this Act:

8 (a) "Autodialer" or "Autodialer System" means any
9 telephone dialing or accessing device, machine, computer or
10 system capable of storing telephone numbers which is programmed
11 to sequentially or randomly access the stored telephone numbers
12 in order to automatically connect a telephone with a recorded
13 message, the term does not include any device associated with a
14 burglar alarm system, voice message system or fire alarm
15 system.

16 (b) "Emergency Telephone Number" means any telephone
17 number which accesses or calls a fire department, law
18 enforcement agency, ambulance, hospital, medical center,
19 poison control center, rape crisis center, suicide prevention
20 center, rescue service, the 911 emergency access number
21 provided by law enforcement agencies and police departments.

22 (c) "Recorded Message" means any artificial or recorded
23 ~~taped~~ communication that includes or introduces an

1 advertisement or constitutes telemarketing ~~soliciting the sale~~
2 ~~of goods or services~~ without live voice interaction.

3 (d) "Voice Messaging System" means any message delivery
4 service which utilizes an autodialer to deliver non-commercial
5 messages to domestic and international recipients.

6 (e) "Subscriber" means:

7 (1) A person who has subscribed to telephone service
8 from a telephone company; or

9 (2) Other persons living or residing with the
10 subscribing person.

11 (f) "Caller ID" means the display to the recipient of the
12 call the caller's telephone number or identity.

13 (g) "Telemarketing" means the initiation of a telephone
14 call or message, that is transmitted to any person, for the
15 purpose of encouraging the purchase or rental of, or investment
16 in, property, goods, or services.

17 (h) "Prior express written consent" has the meaning
18 ascribed to that term in 47 CFR 64.1200(f)(8).

19 (Source: P.A. 91-182, eff. 1-1-00.)

20 (815 ILCS 305/15) (from Ch. 134, par. 115)

21 Sec. 15. Method of operation.

22 (a) No person shall operate an autodialer in this State to
23 place a telephone call during the hours between 9 p.m. and 9
24 a.m.

25 (b) All autodialers operated within the State of Illinois

1 shall disconnect within 30 seconds after termination of the
2 call by the subscriber or the autodialer. Where disconnection
3 in 30 seconds is technically not feasible, the autodialer shall
4 utilize a live operator who shall:

5 (1) state his name, the name, address and telephone
6 number of the business or organization being represented
7 and the purpose of the call; and

8 (2) inquire at the beginning of the call whether the
9 person called consents to hear the prerecorded message.

10 (c) An autodialer shall not be used to dial numbers
11 determined by successively increasing or decreasing integers.

12 (d) An autodialer may not be operated in a manner that
13 impedes the function of any caller ID when the telephone
14 solicitor's service or equipment is capable of allowing the
15 display of the solicitor's telephone number, or that provides
16 inaccurate caller ID information in violation of 47 U.S.C.
17 222(e) and the rules of the Federal Communications Commission
18 implementing 47 U.S.C. 222(e).

19 (Source: P.A. 91-182, eff. 1-1-00.)

20 (815 ILCS 305/30) (from Ch. 134, par. 130)

21 Sec. 30. Violations.

22 (a) It is a violation of this Act to make or cause to be
23 made telephone calls utilizing an autodialer to any emergency
24 telephone number as defined in Section 5. It is a violation of
25 this Act to make or cause to be made telephone calls utilizing

1 an autodialer in a manner that does not comply with Section 15.

2 (b) It is a violation of this Act to play a recorded
3 ~~prerecorded~~ message placed by an autodialer without (i) the
4 prior express written consent of the called party or (ii) the
5 prior express written consent of the called party if the call
6 is made by or on behalf of a tax-exempt nonprofit organization
7 or is a call that delivers a health care message made by, or on
8 behalf of, a covered entity or its business associate as those
9 terms are defined in the Health Insurance Portability and
10 Accountability Act of 1996 at 45 CFR 160.103.

11 (c) Enforcement by customer. Any customer injured by a
12 violation of this Act may bring an action for the recovery of
13 damages. Judgment may be entered for 3 times the amount at
14 which the actual damages are assessed, plus costs and
15 reasonable attorney fees.

16 (c-5) In addition to the damages authorized under
17 subsection (c), a consumer may obtain statutory damages in the
18 amount of \$500 per violation.

19 (d) Enforcement by Attorney General. Violation of any of
20 the provisions of this Act is an unlawful practice under
21 Section 2Z of the Consumer Fraud and Deceptive Business
22 Practices Act. All remedies, penalties and authority granted to
23 the Attorney General by that Act shall be available to him for
24 the enforcement of this Act. In any action brought by the
25 Attorney General to enforce this Act, the court may order that
26 persons who incurred actual damages be awarded the amount at

1 which actual damages are assessed. In addition to actual
2 damages, a court may order that each person who received a call
3 in violation of this Act be awarded statutory damages in the
4 amount of \$500 per violation.

5 (Source: P.A. 98-546, eff. 8-26-13.)