



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5395

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#### 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 the (i) prior express consent of the called party or (ii) the prior express written consent of the called party if the call 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 express written consent".

LRB101 16625 JLS 66009 b

1 AN ACT concerning business.

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.  
17 227(e) and the rules of the Federal Communications Commission  
18 implementing 47 U.S.C. 227(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 consent of the called party if the call is a call  
6 that delivers a health care message made by, or on behalf of, a  
7 covered entity or its business associate as those terms are  
8 defined in the Health Insurance Portability and Accountability  
9 Act of 1996 at 45 CFR 160.103.

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

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

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

1 damages, a court may order that each person who received a call  
2 in violation of this Act be awarded statutory damages in the  
3 amount of \$500 per violation.

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