

1 HB92
2 196033-1
3 By Representative Johnson
4 RFD: Technology and Research
5 First Read: 04-FEB-20
6 PFD: 02/03/2020

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8 SYNOPSIS: Under existing law, the Public Service
9 Commission (PSC) operates a database of residential
10 telephone subscribers who object to receiving
11 telephone solicitations. The PSC is authorized to
12 charge a fee every two years for inclusion on the
13 list. A person or entity is prohibited from making
14 a telephone solicitation to any residential
15 subscriber on the list. In addition, a person or
16 entity making a telephone solicitation to a
17 residential subscriber is required to identify
18 himself or herself and is prohibited from
19 circumventing caller identification. The PSC is
20 authorized to assess a civil penalty up to \$2,000
21 for violations and under certain conditions a
22 person may bring a civil action for damages up to
23 \$2,000.

24 This bill would provide that the Do Not Call
25 Law would also apply to commercial telephone
26 subscribers and to cellular telephone subscribers.
27 The bill would also increase the civil penalty and

1 the amount of damages that may be recovered to
2 \$5,000 in both cases.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 Relating to the Public Service Commission and the
9 operation of the Do Not Call Register for residential
10 telephone subscribers; to amend Sections 8-19C-2, 8-19C-3,
11 8-19C-5, 8-19C-6, and 8-19C-7 of Chapter 19C of the Code of
12 Alabama 1975, to provide that the law would apply to
13 commercial telephone subscribers and cellular telephone
14 subscribers; to increase the amount of civil penalties that
15 may be assessed by the commission for violations; and to
16 increase the amount of civil damages that may be recovered
17 under certain conditions.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 8-19C-2, 8-19C-3, 8-19C-5,
20 8-19C-6, and 8-19C-7 of the Code of Alabama 1975, are amended
21 to read as follows:

22 "§8-19C-2.

23 "(a) No person or entity may make or cause to be
24 made any telephone solicitation to the telephone line of any
25 residential, commercial, or cellular telephone subscriber in
26 this state who has given notice to the commission of his or
27 her objection to receiving telephone solicitations.

1 "(b) (1) The commission shall establish and operate a
2 database to compile a list of telephone numbers of
3 residential, commercial, and cellular telephone subscribers
4 who object to receiving telephone solicitations. ~~The~~
5 ~~commission shall have the database in operation before July 1,~~
6 ~~2000.~~

7 "(2) The database may be operated by the commission
8 or by another entity under contract with the commission.

9 "~~(3) Before July 1, 2000, the~~ The commission shall
10 ~~promulgate regulations~~ adopt rules which shall include all of
11 the following:

12 "a. A requirement that each local exchange company
13 and each competing local exchange carrier and any cellular
14 telephone company shall inform on an annual basis its
15 residential and commercial subscribers and its cellular
16 telephone subscribers of the opportunity to provide
17 notification to the commission or its contractor that the
18 subscriber objects to receiving telephone solicitations.

19 "The information shall be disseminated at the option
20 of the carrier by television, radio, or newspaper
21 advertisements; written correspondence; bill insert or
22 messages; telephone book subscription forms; or any other
23 method not expressly prohibited.

24 "b. Methods by which each residential, commercial,
25 and cellular telephone subscriber may give notice to the
26 commission or its contractor of his or her objection to
27 receiving solicitations or revocation of the notice.

1 "c. Methods by which a notice of objection becomes
2 effective and the effect of a change of telephone number on
3 the notice.

4 "d. Methods by which objections and revocations are
5 collected and added to the database.

6 "e. Methods by which a person or entity desiring to
7 make telephone solicitations may obtain access to the database
8 as required to avoid calling the telephone numbers of
9 residential, commercial, and cellular telephone subscribers
10 included in the database.

11 "f. All other matters relating to the database that
12 the commission deems necessary.

13 "(4) If, pursuant to 47 U.S.C. Section 227(c)(3),
14 the Federal Communications Commission establishes a single
15 national database of telephone numbers of subscribers who
16 object to receiving telephone solicitations, the commission
17 shall include the part of the single national database that
18 relates to Alabama in the database established under this
19 section.

20 "§8-19C-3.

21 "(a) The commission shall have the authority to
22 charge a residential, commercial, and cellular telephone
23 subscriber a fee every two years payable to the commission for
24 each notice for inclusion on the database established pursuant
25 to this chapter. The commission shall also have the authority
26 to charge a person or entity desiring to make telephone
27 solicitations a fee per year payable to the commission for

1 access to, or for paper or electronic copies of the database
2 established pursuant to this chapter. Any fee established by
3 the commission shall be subject to the approval of the
4 Legislative Council.

5 "(b) The commission shall update its "no sales
6 solicitation calls" listing upon receipt of initial consumer
7 subscriptions or renewals and provide this listing for a fee,
8 pursuant to subsection (a).

9 "(c) All fees collected under this chapter shall be
10 deposited into a separate fund in the State Treasury to be
11 expended by the commission for the implementation and
12 administration of this chapter. At the end of each fiscal
13 year, unexpended monies remaining in the fund shall not revert
14 to any other fund of the state, but shall remain available for
15 appropriation. The Legislature shall annually appropriate from
16 the fund the amount necessary for the administration of this
17 chapter to the commission subject to the provisions, terms,
18 conditions, and limitations of the Budget and Financial
19 Control Act, Sections 41-4-80 et seq., Sections 41-19-1 et
20 seq., and any other provisions of this chapter.

21 "§8-19C-5.

22 "(a) Any person or entity who makes a telephone
23 solicitation to the telephone line of a residential,
24 commercial, or cellular telephone subscriber in this state
25 shall identify himself or herself as provided under Section
26 8-19A-12.

1 "(b) No person or entity who makes a telephone
2 solicitation to the telephone line of a residential,
3 commercial, or cellular telephone subscriber in this state may
4 knowingly utilize a method to block or give a false number or
5 otherwise circumvent the use of a caller identification
6 service by the subscriber.

7 "§8-19C-6.

8 "The commission may commence proceedings in the
9 circuit court in the county relating to a knowing violation or
10 threatened knowing violation of subsection (a) of Section
11 8-19C-2 or Section 8-19C-5. Proceedings which the commission
12 may commence, include, without limitation, issuance of a cease
13 and desist order or issuance of an order imposing a civil
14 penalty up to a maximum of ~~two thousand dollars (\$2,000)~~ five
15 thousand dollars (\$5,000) for each violation. The proceedings
16 shall be brought in the name of the state. The commission may
17 issue investigative demands, issue subpoenas, administer
18 oaths, and conduct hearings in the course of investigating a
19 violation of subsection (a) of Section 8-19C-2 or Section
20 8-19C-5.

21 "§8-19C-7.

22 "A person who has received more than one telephone
23 solicitation within a 12-month period by or on behalf of the
24 same person or entity in violation of subsection (a) of
25 Section 8-19C-2 or Section 8-19C-5 may bring an action to
26 enjoin the violation; bring an action to recover for actual
27 monetary loss from the knowing violation or to receive up to

1 ~~two thousand dollars (\$2,000)~~ five thousand dollars (\$5,000)
2 in damages for each knowing violation, whichever is greater;
3 or bring both actions."

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.