



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Jeff Hobday

### **H.B. 597**

132nd General Assembly  
(As Introduced)

**Reps.** Faber and Dever, Brinkman, Roegner, Koehler, Becker, Anielski, Green, Henne, Hoops, DeVitis

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### **BILL SUMMARY**

- Prohibits certain deceptive practices involving the use of false, misleading, or inaccurate caller identification information.
  - Classifies "theft or conversion of a telephone number or exchange" and "providing misleading caller identification information" as felony offenses.
  - Provides civil remedies for persons injured by the deceptive practices prohibited by the bill under the Ohio Consumer Sales Practices Act (CSPA), which are enforceable by the individual or the Attorney General.
  - Allows a consumer who obtained goods or services as a result of an offender's conduct to keep those goods or services without any obligation to pay.
  - Provides that the bill's provisions do not apply if a person uses a telephone number that is identified as "unknown" or "blocked" or if the person leaves a message and discloses the person's identity.
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### **CONTENT AND OPERATION**

#### **Deceptive practices involving caller ID services**

##### **Criminal prohibitions**

The bill creates two new criminal offenses prohibiting deceptive practices involving caller identification services. Under the bill, no person, in connection with any

telecommunication service or "voice over internet protocol service,"<sup>1</sup> may knowingly cause a caller identification service to transmit either of the following:<sup>2</sup>

(1) Information using or repeating a telephone number or exchange that is not assigned to the person;

(2) Misleading or inaccurate caller identification information when the person knows that the information is misleading or inaccurate and that the misleading or inaccurate information will defraud or cause harm to the recipient or that the person will wrongfully obtain anything of value.

Under the bill, a violation of the first prohibition is "theft or conversion of a telephone number or exchange," and a violation of the second is "providing misleading caller identification information." The bill classifies "theft or conversion of a telephone number or exchange" as a fifth degree felony and "providing misleading caller identification information" as a fourth degree felony. If the victim of either offense is an elderly person, disabled adult, active duty service member, or spouse of any active duty service member, the penalty increases. "Theft or conversion of a telephone number or exchange against a person in a protected class" is a fourth degree felony, and "providing misleading caller identification information against a person in a protected class" is a third degree felony.<sup>3</sup>

## **Civil remedies**

### **Consumer Sales Practices Act**

The bill classifies the conduct described above as an "unfair or deceptive act or practice" in violation of the Ohio Consumer Sales Practices Act (CSPA), which provides civil remedies to the person injured. Remedies available to a consumer injured by a CSPA violation include rescission of a transaction made with the offending party, injunctive relief, and damages. A conviction or plea of guilty to one of the criminal prohibitions described above is not necessary to prevail in such an action, but such a conviction or plea of guilty creates an irrebuttable presumption of the violation in such a cause of action. The bill also authorizes the Attorney General to enforce the prohibitions on behalf of consumers under the CSPA by means of injunctions and civil penalties.<sup>4</sup>

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<sup>1</sup> Defined by cross-reference to R.C. 4927.01, not in the bill. Briefly stated, "voice over internet protocol service" is real-time, two-way voice communication that occurs via the Internet.

<sup>2</sup> R.C. 2913.50(B).

<sup>3</sup> R.C. 2913.50(C).

<sup>4</sup> R.C. 2913.50(E) and R.C. 1345.01 to 1345.13, not in the bill.



### **Goods or services received**

In addition to the remedies provided under the CSPA, the bill allows a consumer who obtained goods or services as a result of an offender's violation of the prohibitions above to keep those goods or services without any obligation to pay. The offender is prohibited from raising a claim for payment against the consumer.<sup>5</sup>

### **Exemption from liability**

The bill's provisions do not apply if a person uses a telephone number that is identified as "unknown" or "blocked" or if the person leaves a message and includes the person's identity.<sup>6</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	04-11-18

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<sup>5</sup> R.C. 2913.50(F).

<sup>6</sup> R.C. 2913.50(D).

