

**As Introduced**

**136th General Assembly  
Regular Session  
2025-2026**

**S. B. No. 224**

**Senator Gavarone**

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To amend section 109.87 of the Revised Code to make 1  
changes to the telemarketing law. 2

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 109.87 of the Revised Code be 3  
amended to read as follows: 4

**Sec. 109.87.** (A) (1) Unless otherwise defined in this 5  
section, the terms that are used in this section have the same 6  
meanings as in the applicable federal act or rule. 7

(2) As used in this section: 8

(a) "Federal act or rule" means the "Telemarketing and 9  
Consumer Fraud and Abuse Prevention Act," 108 Stat. 1545 to 10  
1551, 15 U.S.C. 6101 to 6108, the "Telephone Consumer Protection 11  
Act of 1991," 105 Stat. 2395, 47 U.S.C. 227, any amendment or 12  
reenactment of either of those acts, any rule adopted or issued 13  
pursuant to either of those acts, or any amendment of that rule. 14

(b) ~~"Voice service provider" means any entity originating, 15  
carrying, or terminating voice calls through time-division- 16  
multiplexing, voice over internet protocol, including 17  
interconnected or one-way voice over internet protocol, or 18  
commercial mobile radio service. 19~~

~~(e)~~—"Voice service" means any service that is 20  
interconnected with the public switched telephone network, 21  
directly or as an intermediary, and that furnishes voice 22  
communications to an end user using resources from the North 23  
American numbering plan or any successor to the North American 24  
numbering plan adopted by the federal communications commission 25  
under the Communications Act of 1934, 47 U.S.C. 251(e)(1), and 26  
includes both of the following: 27

(i) A transmission from a telephone facsimile machine, 28  
computer, or other device to a telephone facsimile machine. 29

(ii) Without limitation, any service that enables real- 30  
time, two-way voice communications, including any service that 31  
requires internet protocol-compatible customer premises 32  
equipment out-bound calling, whether or not the service is one- 33  
way or two-way voice over internet protocol. 34

~~(d)(i) "Text message" means a message consisting of text, 35  
images, sounds, or other information that is transmitted to or 36  
from a device that is identified as the receiving or 37  
transmitting device by means of a ten-digit telephone number or 38  
N-1-1 service code and includes a short message service and a 39  
multimedia message service. 40~~

~~(ii) "Text message" does not include a real-time, two-way 41  
voice or video communication or a message sent over an internet- 42  
protocol-enabled messaging service to another user of the same 43  
messaging service, except a message described in division (A)(2) 44  
~~(d)(i) of this section. 45~~~~

~~(e) "Text messaging service" means a service that enables 46  
the transmission or receipt of a text message, including a 47  
service provided as part of or in connection with a voice- 48~~

~~service.~~

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(B) (1) No person, entity, merchant, seller, or  
telemarketer shall engage in any act or practice in violation of  
any provision of a federal act or rule.

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(2) (a) No person shall provide substantial assistance or  
support to any person, entity, merchant, seller, or telemarketer  
when that person knows or consciously avoids knowing that the  
other person, entity, merchant, seller, or telemarketer is  
engaged in any act or practice that violates any provision of a  
federal act or rule.

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(b) For purposes of division (B) (2) (a) of this section,  
"substantial assistance or support" does not include the  
provision of a voice service to a third party by a ~~voice service~~  
~~provider if one or more person that is any of the following is~~  
true:

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(i) ~~The voice service provider is not designated as a non-~~  
~~cooperative~~ Operating as an incumbent local exchange carrier by  
~~the consortium registered with the federal communications~~  
~~commission pursuant to 47 C.F.R. 64.1203, as defined in section~~  
4927.01 of the Revised Code.

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(ii) ~~The network of the voice service provider does not~~  
~~originate the voice service or text messaging service~~ Operating  
as a telephone company or wireless service provider that is  
certified or registered, as applicable, with the public  
utilities commission pursuant to section 4927.05 of the Revised  
Code.

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(iii) ~~The network of the voice service provider is not the~~  
~~first domestic provider handling the voice service or text~~  
~~messaging service that originates outside of the United~~

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States operating as an eligible telecommunications carrier 78  
designated by rule by the public utilities commission pursuant 79  
to section 4927.04 of the Revised Code. 80

(iv) An issuer of a class of securities registered under 81  
section 12 of the "Securities Exchange Act of 1934," 15 U.S.C. 82  
781, including any subsidiary entity in which the issuer owns, 83  
either directly or indirectly through one or more 84  
intermediaries, more than seventy-five per cent of the 85  
ownership, voting, or similar interests then outstanding. 86

(3) The attorney general, in any proceedings under this 87  
section, shall recognize any exemptions recognized by the 88  
federal communications commission under the "Telephone Consumer 89  
Protection Act of 1991," 105 Stat. 2395, 47 U.S.C. 227, any 90  
amendment or reenactment of that act, any rule adopted or issued 91  
pursuant to that act, or any amendment of that rule. 92

(C) (1) If the attorney general, as a result of complaints 93  
or the attorney general's own inquiries, has reason to believe 94  
that a person has engaged, is engaging, or is preparing to 95  
engage in a violation of this section or any provision of a 96  
federal act or rule, the attorney general may investigate the 97  
alleged violation. For purposes of an investigation under 98  
division (C) (1) of this section, the attorney general may 99  
administer oaths, subpoena witnesses, adduce evidence, and 100  
require the production of any relevant matter. 101

(2) If the matter to be produced under division (C) (1) of 102  
this section is located outside this state, the attorney general 103  
may designate any representative, including any official of the 104  
state in which the matter is located, to inspect the matter on 105  
the behalf of the attorney general. The person subpoenaed may 106  
make the matter available to the attorney general at a 107

convenient location within the state or pay the reasonable and 108  
necessary expenses for the attorney general or the attorney 109  
general's representative to examine the matter at the place 110  
where it is located, provided that those expenses shall not be 111  
charged to a party that subsequently is not found to have 112  
engaged in a violation of this section or any provision of a 113  
federal act or rule. 114

(3) A person subpoenaed under division (C)(1) of this 115  
section may file a motion to extend the day on which the 116  
subpoena is to be returned or to modify or quash the subpoena, 117  
for good cause shown, in the court of common pleas of Franklin 118  
county or of the county in this state in which the person 119  
resides or in which the person's principal place of business is 120  
located. The person may file the motion not later than twenty 121  
days after the service of the subpoena. 122

(4) A person subpoenaed under division (C)(1) of this 123  
section shall comply with the terms of the subpoena unless the 124  
parties agree to modify the terms of the subpoena or unless the 125  
court has modified or quashed the subpoena, extended the day on 126  
which the subpoena is to be returned, or issued any other order 127  
with respect to the subpoena prior to the day on which the 128  
subpoena is to be returned. If a person fails without lawful 129  
excuse to testify or to produce relevant matter pursuant to a 130  
subpoena, the attorney general may apply to the court of common 131  
pleas of the county in which the person subpoenaed resides or in 132  
which the person's principal place of business is located for an 133  
order that compels compliance with the subpoena. 134

(5) If an individual subpoenaed under division (C)(1) of 135  
this section refuses to testify or to produce relevant matter 136  
pursuant to the subpoena on the ground that the testimony or 137

matter may incriminate the individual, the attorney general may 138  
request the court to order the individual to provide the 139  
testimony or matter. With the exception of a prosecution for 140  
perjury or a civil action for damages under division (D) (1) of 141  
this section, an individual who complies with a court order to 142  
provide testimony or matter, after asserting a privilege against 143  
self-incrimination to which the individual is entitled by law, 144  
shall not be subjected to a criminal proceeding or a civil 145  
penalty or forfeiture on the basis of the testimony or matter 146  
required to be disclosed or testimony or matter discovered 147  
through that testimony or matter required to be disclosed. 148

(6) In conducting an investigation under this section, the 149  
attorney general shall not publicly disclose the identity of 150  
persons, entities, merchants, sellers, or telemarketers 151  
investigated or the facts developed in the investigation unless 152  
this information has become a matter of public record in 153  
enforcement proceedings or if those being investigated have 154  
consented in writing to public disclosure. 155

(7) In conducting an investigation under this section, the 156  
attorney general shall cooperate with state and local officials 157  
of other states and officials of the federal government in the 158  
administration of comparable laws and regulations. 159

(8) The attorney general may do either of the following: 160

(a) During an investigation under division (C) of this 161  
section, afford the person who is the subject of the 162  
investigation, in a manner considered appropriate to that 163  
person, an opportunity to cease and desist from any suspected 164  
violation of this section or any provision of a federal act or 165  
rule. The attorney general may suspend the investigation during 166  
the period that the attorney general permits the person to cease 167

and desist from that suspected violation. The suspension of the 168  
investigation or the affording of an opportunity to cease and 169  
desist shall not prejudice or prohibit any further investigation 170  
by the attorney general under division (C) of this section. 171

(b) Terminate an investigation under division (C) of this 172  
section upon acceptance of a written assurance of voluntary 173  
compliance from a person who is suspected of a violation of this 174  
section or any provision of a federal act or rule. The 175  
acceptance of an assurance under division (C) (8) (b) of this 176  
section may be conditioned upon an undertaking to reimburse or 177  
to take other appropriate corrective action with respect to 178  
identifiable telephone service subscribers who are damaged by an 179  
alleged violation of this section or any provision of a federal 180  
act or rule. An assurance of compliance given by a person under 181  
division (C) (8) (b) of this section is not evidence of a 182  
violation of this section or any provision of a federal act or 183  
rule. The attorney general, at any time, may reopen an 184  
investigation terminated by the acceptance of an assurance of 185  
voluntary compliance, if the attorney general believes that 186  
further proceedings are in the public interest. Evidence of a 187  
violation of an assurance of voluntary compliance is prima-facie 188  
evidence of an act or practice in violation of this section or 189  
the applicable provision of a federal act or rule if the 190  
evidence is presented after the violation in a civil action 191  
brought under division (D) (1) of this section. An assurance of 192  
voluntary compliance may be filed with the court and if approved 193  
by the court, entered as a consent judgment in the action. 194

(9) The procedures that are available to the attorney 195  
general under division (C) of this section are cumulative and 196  
concurrent, and the exercise of one procedure by the attorney 197  
general does not preclude or require the exercise of any other 198

procedure. 199

(D) (1) If, by the attorney general's own inquiries or as a 200  
result of complaints or an investigation conducted under 201  
division (C) of this section, the attorney general has 202  
reasonable cause to believe that a person has engaged or is 203  
engaging in a violation of any provision of this section or of a 204  
federal act or rule, the attorney general, subject to division 205  
(D) (3) or (4) of this section, may bring in the appropriate 206  
court of common pleas of this state or in the appropriate 207  
district court of the United States, but not in both courts, a 208  
civil action against the alleged violator for injunctive relief, 209  
damages, and civil penalties pursuant to the federal act or 210  
rule, on behalf of the residents of this state who have been 211  
subjected to acts or practices in violation of this section. The 212  
attorney general may bring the action under this section or 213  
under the applicable federal act or rule, but the attorney 214  
general shall not plead a violation of both this section and the 215  
applicable federal act or rule in the action. 216

(2) On the motion of the attorney general or on its own 217  
motion, a court may impose a civil penalty of five hundred 218  
dollars for each violation of the provision of this section or 219  
of the federal act or rule that is the subject of the action. If 220  
the court finds the defendant willfully or knowingly committed 221  
the violation, the court may impose a civil penalty of one 222  
thousand five hundred dollars for each violation of the 223  
provision of this section or of the federal act or rules that is 224  
the subject of the action. An award of damages or civil 225  
penalties may be recovered under this section or under the 226  
applicable federal act or rule, but an award of damages or civil 227  
penalties shall not be recovered under both this section and the 228  
applicable federal act or rule. 229



(3) If a civil action has been instituted by or on behalf 230  
of the federal trade commission or the federal communications 231  
commission for a violation of any provision of an applicable 232  
federal act or rule, the attorney general, during the pendency 233  
of that action, shall not institute any civil action under 234  
division (D)(1) of this section against any defendant that is 235  
named in the complaint in the civil action that has been 236  
instituted by or on behalf of the federal trade commission or 237  
the federal communications commission, whichever is applicable, 238  
for any violation that is alleged in that complaint. 239

(4) If a civil action that has been instituted by or on 240  
behalf of the federal trade commission or the federal 241  
communications commission for a violation of any provision of an 242  
applicable federal act or rule affecting the residents of this 243  
state is litigated to its conclusion and the federal trade 244  
commission or the federal communications commission recovers an 245  
award of damages or civil penalties or obtains any relief under 246  
the applicable federal act or rule, the attorney general shall 247  
not institute any civil action under division (D)(1) of this 248  
section for any violation within the same time period that is 249  
alleged in the civil action that was instituted as described in 250  
division (D)(4) of this section and in which the federal trade 251  
commission or federal communications commission has recovered 252  
the damages or civil penalties or obtained the relief. 253

(5) No action may be brought by the attorney general under 254  
this section for damages or a civil penalty more than five years 255  
after the occurrence of the violation. 256

(E) Any civil action that the attorney general brings in a 257  
federal court under division (D)(1) of this section shall comply 258  
with the applicable provisions of the federal act or rule the 259

violation of which is the subject of the action. 260

(F) The attorney general shall deposit any civil penalties 261  
that are imposed under division (D) (2) of this section to the 262  
credit of the telemarketing fraud enforcement fund created under 263  
section 4719.17 of the Revised Code, to be used to pay the costs 264  
of the office of the attorney general in investigating any 265  
violation of, and in enforcing, any federal act or rule or this 266  
section or for any other purpose as set forth under section 267  
4719.17 of the Revised Code. 268

(G) A violation of division (B) (1) or (2) of this section 269  
that involves a consumer transaction as defined in section 270  
1345.01 of the Revised Code shall be considered an unfair or 271  
deceptive act or practice in violation of section 1345.02 of the 272  
Revised Code. All powers and remedies available to the attorney 273  
general to enforce sections 1345.01 to 1345.13 of the Revised 274  
Code are available to the attorney general to enforce this 275  
section. 276

**Section 2.** That existing section 109.87 of the Revised 277  
Code is hereby repealed. 278