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**House Criminal Justice Committee  
Dave Yost, Ohio Attorney General  
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Good Afternoon Chairman LaRe, Vice Chair Swearingen, Ranking Member Leland and esteemed members of the House Criminal Justice Committee. I am happy to be with you today testifying in support of Senate Bill 54.

The Attorney General's Office worked on revising Senate Bill 145 of the 133<sup>rd</sup> General Assembly under the leadership of Senator Burke. It is our great pleasure to continue this work with Senator Gavarone in the 134<sup>th</sup> General Assembly. The aim of this legislation is to make the State of Ohio the toughest state in the nation in which to conduct an illegal robocalling scheme. My office has taken many steps prior to seeking this legislative change including the establishment of a dedicated Robocall Enforcement Unit, a robocalling tip line and collaborating at the national level with telecommunications providers on robocall traceback efforts to flush out the bad actors. So far, those traceback efforts have been successful. Last year, Ohio joined a suit against a pair of Texas companies which spoofed caller identification information as it robocalled Ohioans over 56 million times. Many of the facts of this case have been informed by the stellar work of our Robocall Enforcement Unit. I'd like to take a couple of minutes to highlight the noteworthy changes we are seeking in this bill to achieve these objectives. to make Ohio the toughest state on robocalling.

### **Dialing in on Robocallers**

SB 54 adds a person, entity, or merchant to the current list of entities that are prohibited from engaging in a violation of the federal Telemarketing and Consumer Fraud and Abuse Prevention Act, its Telemarketing Sales Rule (TSR), and the Telephone Consumer Protection Act (TCPA). This change would fully incorporate the existing prohibitions of the two federal statutes into the state statute. The TCPA prohibits a "person" or "entity" from engaging in certain actions, and select provisions of the TSR prohibit a "person" or "merchant" from engaging in certain actions.

Additionally, the bill would prohibit anyone from providing substantial assistance or support to a caller when they know or consciously avoid knowing the caller is violating the TCPA. This would include Voice over Internet Protocol (VoIP) and VoIP Service Providers (VSP). This same prohibition on third-party assisting or facilitating already exists in the TSR. Since the TCPA covers a broader range of robocalls than the TSR, adding this prohibition to our state statute is a crucial step in stopping third parties from knowingly assisting illegal robocalling and telemarketing fraud.

Finally, there is an express statute of limitations of 5 years and a civil penalty provision which is consistent with civil penalties currently available in the TCPA. Violations of any part of ORC 109.87 would now qualify as a violation of Ohio's Consumer Sales Practices Act (CSPA) if the deceptive act occurs within the course of a consumer transaction.

### **How will it work?**

Let me give you a brief example of how our office has used similar prohibitions in federal law, and why state law addition of these provisions will be beneficial to Ohioans.

In 2019, in a joint action with the Federal Trade Commission, our Consumer Protection Section filed an action in US District Court in Texas against Educare Centre Services and Globex Telecom, Inc. Educare targeted consumers with millions of illegal robocalls that pitched an interest rate reduction scheme that failed to deliver. The scheme resulted in over 10.3 million dollars in losses to consumers nationwide. Globex Telecom provided VOIP services for Educare while knowing of Educare's deceptive scheme.

In June 2020, the Consumer Protection Section obtained a judgment in US District Court in Texas against Madera Merchants, a third-party payment processor from Texas that processed the 10.3 million for Educare Center Service using a payment method banned by the TSR. Under the proposed authority in SB 54, the Attorney General would be able to act in state court against these third parties when they knowingly participate or willfully turn a blind eye to illegal practices, and also seek remedies under Ohio's CSPA.

### **Providing a Safe Harbor for Industry Partners**

In practice, the great majority of telecommunications providers implement practices designed to curtail illegal robocalls, take steps to know their customers before providing their services, and participate in industry efforts to trace the origin of illegal robocalls. However, there is a small segment of VSPs that don't adhere to industry best practice or cooperate with industry traceback efforts. Not surprisingly, this small segment of companies—like Globex Telecom—are disproportionately responsible for allowing billions of robocalls onto the US telephone network, often from outside the US.

To acknowledge the positive steps being taken by the state's major telecommunications networks, and to encourage other VSPs to participate in industry-led traceback efforts and to implement industry best practices, SB 54 includes a "Safe Harbor" provision that was informed by the feedback provided by the telecoms, our Consumer Protection Section, and others. A VSP would not be liable under the assisting and facilitating charge so long as it meets any one or more of the following criteria: 1) the VSP is not designated as a non-cooperative carrier by the industry-led traceback consortium pursuant to the federal TRACED Act, 2) it is not the originating carrier of

the illegal robocalls, and 3) or it is not the first domestic provider for illegal robocalls originating outside of the United States. We believe these reasonable protections will promote greater industry participation in cooperative traceback efforts, and acknowledges the steps many responsible telecommunication networks take to protect their customers from unwanted calls.

### **Unmasking Spoofing**

The legislation also targets individuals who knowingly mask their caller identification information—also known as spoofing. Accordingly, the bill amends ORC 2913.05 to modernize the statute and puts some teeth in it to go after spoofing.

The bill makes clear that VoIP services are included in the list of technological means in which a person can seek to defraud another person, and prohibits any person with the intent to defraud, cause harm, or wrongfully obtain anything of value from knowingly causing a caller identification service to transmit inaccurate or misleading caller identification information.

Spoofers operate at their best by masking their number to match a number with the same area code as you. I have gone around the state urging people to not pick up if you don't recognize the number. It only gets you on their list of people more likely to pick up and fall victim to whatever scam they are pushing. Exemptions are included in the bill for valid uses of this type of technology, including school alerts or emergency systems.

The legislation enhances the penalty for spoofing to a felony of the fourth degree when the victim is an elderly person, adult with a disability, or an active duty service member or their spouse. In the last General Assembly, this penalty enhancement garnered a significant amount of support from veteran's service organizations and from advocates on behalf of the elderly community.

### **Conclusion**

Chairman LaRe, thank you again for allowing me to testify in support of SB 54 in committee today. SB 54 was favorably voted out of the Senate by a vote of 31-1, and the work of our Robocall Enforcement Unit will be made stronger by the authority present in SB 54. I look forward to working with this committee on making Ohio the toughest state on robocalling. I would be happy to take any questions at this time.