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## HOUSE BILL NO. 2564

Offered January 9, 2019

Prefiled January 9, 2019

A BILL to amend and reenact §§ 59.1-510 and 59.1-513 of the Code of Virginia, relating to the Virginia Telephone Privacy Protection Act; transmission of caller identification information.

Patrons—Pillion, O'Quinn and Ware

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 59.1-510 and 59.1-513 of the Code of Virginia are amended and reenacted as follows:**

**§ 59.1-510. Definitions.**

As used in this chapter:

"Call" means any communication, message, signal, or transmission, including a text message, through the use of a communications service.

"Caller" means a person who makes, places, or initiates a call using a communications service.

"Caller identification information" means information provided by a caller identification service regarding the telephone number of, or other information regarding the origin of, a call made or placed using a communications service.

"Caller identification service" means a listing of caller identification information that is shown to a recipient of a call when a call made using a communications service is received.

"Communications service" includes any telecommunication service, broadband service, or interconnected Voice-over-Internet Protocol service.

"Established business relationship" means a relationship between the ~~called person~~ recipient of a telephone solicitation call and the person on whose behalf the telephone solicitation call is being made based on: (i) the ~~called person's~~ call recipient's purchase from, or transaction with, the person on whose behalf the telephone solicitation call is being made within the 18 months immediately preceding the date of the call or (ii) the ~~called person's~~ call recipient's inquiry or application regarding any property, good, or service offered by the person on whose behalf the telephone solicitation call is being made within the three months immediately preceding the date of the call.

"Personal identifying information" means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to an individual resident of the Commonwealth, when the data elements are neither encrypted nor redacted:

1. Social security number;

2. Driver's license number or state identification card number issued instead of a driver's license;

3. Financial account number, credit card number, or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or

4. Other numbers or information that may be used to access an individual's financial accounts or numbers or information issued by a governmental or regulatory entity that uniquely will identify an individual.

"Personal identifying information" does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

"Personal relationship" means the relationship between a telephone solicitor making a telephone solicitation call and any family member, friend, or acquaintance of that telephone solicitor.

"Prize promotion" means (i) a sweepstakes or other game of chance or (ii) an oral or written representation that a person has won, has been selected to receive, or may be eligible to receive a prize or purported prize.

"Telephone solicitation call" means any ~~telephone~~ call made, placed, or initiated to any ~~natural person's~~ individual's residence in the Commonwealth, or to any wireless telephone with a Virginia area code, for the purpose of (i) offering or advertising any property, goods, or services for sale, lease, license, or investment, including offering or advertising an extension of credit; (ii) prize promotion; or (iii) obtaining information that will or may be used for the direct solicitation thereof. "Telephone solicitation call" does not mean:

1. A political campaign-related call made, or a text or media message sent, in compliance with the federal Telephone Consumer Protection Act, 47 U.S.C. § 227;

2. Except for the purposes of § 59.1-514, and unless the individual who is the object of the telephone

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HB2564

59 solicitation call previously stated a desire not to be contacted by or on behalf of the person on whose  
60 behalf the telephone solicitation call is being made, a telephone solicitation call made to an individual:

61 a. With that individual's prior express invitation or permission as evidenced by a signed or  
62 electronically signed, written agreement stating that the individual agrees to be contacted by or on  
63 behalf of a specific party and including the telephone number to which the calls may be placed;

64 b. With whom the person on whose behalf the telephone solicitation is made has an established  
65 business relationship; or

66 c. With whom the telephone solicitor making the call or sending a text message has a personal  
67 relationship; or

68 3. Calls by institutions licensed and regulated under Title 38.2.

69 "Telephone solicitor" means any person who makes, places, or initiates, or causes another person to  
70 make, place, or initiate, a telephone solicitation call.

71 "Text message" means a communication consisting of text, images, sounds, or other information that  
72 is transmitted to or from a device that is identified as the receiving or transmitting device by means of a  
73 10-digit telephone number or N11 service code.

74 **§ 59.1-513. Transmission of caller identification information required.**

75 A. A telephone solicitor who makes, places, or initiates a telephone solicitation call shall transmit the  
76 telephone number, and, when available by the telephone solicitor's carrier, the name of the telephone  
77 solicitor. It shall not be a violation of this section to substitute (, for the name and telephone number  
78 used in, or billed for, making the call), the name of the person on whose behalf the telephone  
79 solicitation call is being made, placed, or initiated and that person's customer service telephone number.  
80 The number so provided ~~must~~ shall permit, during regular business hours, any individual to make a  
81 request not to receive telephone solicitation calls.

82 B. No telephone solicitor shall take any intentional action to prevent the transmission of the  
83 telephone solicitor's name or telephone number to any person receiving a telephone solicitation call.

84 C. No person shall, with the intent to defraud, harass, cause harm, or wrongfully obtain anything of  
85 value, including financial resources or personal identifying information:

86 1. Make, place, or initiate a call or text message or engage in conduct that results in the display of  
87 misleading, false, or inaccurate caller identification information on the receiving party's telephone or  
88 otherwise circumvent caller identification technology that is designed to allow the receiving party to  
89 identify from what telephone number, location, or organization the call or text message has originated  
90 from or misrepresent the origin and nature of the call or text message;

91 2. Display a Virginia area code on the recipient's caller identification system unless the person  
92 making, placing, or initiating the call or text message maintains a physical presence in the  
93 Commonwealth; or

94 3. Display the receiving party's telephone number on the contacted party's caller identification  
95 system.

96 D. The provisions of subsection C shall not apply to:

97 1. A provider of landline or wireless communications services merely by virtue of its involvement in  
98 delivering a call or text message initiated by or on behalf of a third party, unless the provider provides  
99 substantial assistance or support to the telephone solicitor initiating the call when the provider knows or  
100 consciously avoids knowing that such telephone solicitor is engaged in any act or practice that violates  
101 this chapter;

102 2. Lawfully authorized investigative, protective, or intelligence activity of a federal, state, or local  
103 law-enforcement agency; or

104 3. Activity engaged in pursuant to a court order that specifically authorizes the use of caller  
105 identification manipulation.