



Senate

General Assembly

File No. 825

January Session, 2007

Substitute Senate Bill No. 157

Senate, May 15, 2007

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PROHIBITING "ROBO" CALLS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) As used in sections 1 to 5,
2 inclusive, of this act:

3 (1) "Automatic dialing-announcing device" means a device that
4 selects and dials telephone numbers and, working alone or in
5 conjunction with other equipment, disseminates a prerecorded or
6 synthesized voice message to the telephone number called.

7 (2) "Caller" means a person, corporation, firm, partnership,
8 association, or legal or commercial entity that attempts to contact, or
9 who contacts, a subscriber in this state by using a telephone or a
10 telephone line.

11 (3) "Subscriber" means a person who subscribes to telephone service
12 from a telephone company or any other persons living or residing with
13 the subscribing person.

14 (4) "Message" means any telephone call, regardless of its content.

15 Sec. 2. (NEW) (*Effective October 1, 2007*) No caller shall use or
16 connect to a telephone line an automatic dialing-announcing device for
17 the purpose of leaving a message unless the message is immediately
18 preceded by a statement in the voice of the candidate for public office
19 identifying the purpose of the message and that the candidate is using
20 an automatic dialing-announcing device.

21 Sec. 3. (NEW) (*Effective October 1, 2007*) No caller shall use an
22 automatic dialing-announcing device unless the device is designed
23 and operated to disconnect not later than ten seconds after termination
24 of the telephone call by the subscriber.

25 Sec. 4. (NEW) (*Effective October 1, 2007*) No caller shall use an
26 automatic dialing-announcing device earlier than nine o'clock a.m. or
27 later than nine o'clock p.m., or at any time on Saturday or Sunday. The
28 provisions of this section shall not be construed to apply to (1)
29 messages from school districts to students, parents or employees, (2)
30 messages to subscribers with whom the caller has a current business or
31 personal relationship, or (3) messages advising employees of work
32 schedules.

33 Sec. 5. (NEW) (*Effective October 1, 2007*) No caller shall use an
34 automatic dialing-announcing device to connect to a cellular
35 telephone.

36 Sec. 6. (NEW) (*Effective October 1, 2007*) Any person who receives a
37 telephone call in violation of sections 1 to 5, inclusive, of this act may
38 bring an action in Superior Court to recover actual damages or
39 statutory damages of two thousand dollars, whichever is greater, plus
40 costs and reasonable attorneys' fees. In addition, the court may order
41 injunctive or equitable relief. For purposes of this section, each
42 telephone call received in violation of said sections shall constitute a
43 separate and distinct violation.

44 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) The Attorney General

45 may issue subpoenas or interrogatories requiring production of
 46 evidence or testimony concerning a violation of sections 1 to 5,
 47 inclusive, of this act. The Attorney General may apply to the Superior
 48 Court to enforce any subpoena or interrogatories issued pursuant to
 49 this subsection.

50 (b) The Attorney General may file a civil action in Superior Court to
 51 enforce the provisions of this section and to enjoin further violations of
 52 sections 1 to 5, inclusive, of this act. The Attorney General may recover
 53 actual damages or statutory damages of twenty-five thousand dollars,
 54 whichever is greater, for each violation of sections 1 to 5, inclusive, of
 55 this act. For purposes of this section, each telephone call received in
 56 violation of sections 1 to 5, inclusive, of this act shall constitute a
 57 separate and distinct violation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Consumer Protection, Dept.	GF - Cost	Potential 202,500	Potential 200,400
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	Potential 108,500	Potential 111,701
Attorney General; Judicial Dept.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill could result in a cost for the Department of Consumer Protection (DCP) to acquire additional staff resources in the Trade Practices Division for enforcement of potential noncompliance with this bill. The extent to which these staff resources would be required is dependent upon the level of noncompliance. If there are a significant amount of complaints to DCP, notices, and investigations three additional staff would be needed. Detail appears in the table below:

Item:	FY 08 (\$)	FY 09 (\$)
Staff Attorney	74,662	76,902
2 Special Investigators ²	105,483	108,647
Fringe Benefits	140,198	144,404
Other Expenses	17,964	14,832

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

² Each Special Investigator has a salary of \$52,742 in FY 09 and \$54,324 in FY 09.

Equipment	4,400	0
Total	395,448	399,109

It should be noted that there are one-time costs of \$7,532 in FY 08 for DCP’s start-up of these new positions.

The bill also provides a private (civil) cause of action against any person who places a telephone call in violation of the bill’s provisions. This could yield minimal annual revenue to the General Fund from court fees. Any caseload increase under the bill could be accommodated by the Judicial Department without requiring additional resources.

Finally, the bill permits the Office of the Attorney General to file a civil suit. This could yield state revenues from civil fines.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, and subject to the level of noncompliance with the bill, which is unknown at this time.

OLR Bill Analysis**sSB 157*****AN ACT PROHIBITING "ROBO" CALLS.*****SUMMARY:**

This bill bans callers from making telephone calls using an automatic dialing-announcing device (ADAD), known as "robo calls," unless certain conditions are met and with limited exceptions. It completely bans robo calls made to cellular telephones, regardless of the call's purpose or relationship between the caller and telephone service subscriber.

The bill allows a person who receives a robo call in violation of its provisions to bring an action in Superior Court to seek damages. It also authorizes the attorney general to issue subpoenas or interrogatories to determine whether violations have occurred and recover civil damages.

EFFECTIVE DATE: October 1, 2007

RESTRICTIONS ON ROBO CALLS TO NON-CELLULAR PHONES

The bill requires robo calls made by anyone and for any purpose to be immediately preceded by a statement in the voice of a candidate for public office (presumably a recording) identifying the reason for the message and that the candidate is using an ADAD (see COMMENT). In addition, the ADAD must disconnect within 10 seconds after the subscriber ends the call.

With three exceptions, robo calls may occur only between 9:00 a.m. and 9:00 p.m., Monday through Friday. The exceptions are messages (1) from school districts to students, parents, or employees; (2) to subscribers with whom the caller has a current business or personal relationship; or (3) advising employees of their work schedules.

ENFORCEMENT

The bill authorizes individuals who receive a telephone call in violation of its provisions to bring an action in Superior Court to recover actual damages or statutory damages of \$2,000, whichever is greater, plus costs and reasonable attorneys' fees. It allows the court to order injunctive or equitable relief. Each telephone call constitutes a separate violation.

The bill authorizes the attorney general to (1) issue subpoenas or interrogatories requiring production of evidence or testimony concerning violations and (2) apply to Superior Court to enforce any such subpoena or interrogatory. The bill also authorizes the attorney general to bring an action in Superior Court to sue callers and ask the court to enjoin them from further calls. Each call constitutes a separate violation for which the attorney general may recover actual damages or statutory damages of \$25,000, whichever is greater.

By law, an individual may already be subject to a criminal fine of up to \$500 for using a device to transmit unsolicited recorded telephone messages for commercial, business, or advertising purposes if the device does not disconnect immediately when the subscriber hangs up (CGS § 16-256e).

DEFINITIONS

The bill defines "automatic dialing-announcing device" as a device that selects and dials telephone numbers and, working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called. It defines "callers" as people, corporations, firms, partnerships, associations, or legal or commercial entities that contact or attempt to contact telephone subscribers in Connecticut by using a telephone or telephone line. "Subscribers" are people who subscribe to a telephone service from a telephone company, or any other people who live with them. Finally, a "message" is any telephone call, regardless of its content.

BACKGROUND***Legislative History***

The Senate referred the bill (File 163) to the Judiciary Committee, which reported a substitute (1) requiring robo calls to be preceded by a statement in a candidate's voice, (2) prohibiting most robo calls on Saturday and Sunday, (3) eliminating provisions that prohibited robo calls unless a subscriber gave prior authorization or a live operator obtained the subscriber's consent, and (4) banning all robo calls to cellular telephones.

COMMENT***Candidate Statement***

The bill prohibits callers from using an ADAD to leave a message unless the message is immediately preceded by a statement in the voice of a candidate for public office. The bill defines "message" as any telephone call, regardless of its content. Thus, this provision applies to all calls, including those that are not intended to promote the success or defeat of a candidate for public office, such as those that are made for commercial, business, or advertising purposes.

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 19 Nay 0 (03/14/2007)

Judiciary Committee

Joint Favorable Substitute

Yea 29 Nay 3 (04/30/2007)