

1 S.11

2 Introduced by Senators Sears and Brock

3 Referred to Committee on Judiciary

4 Date: January 12, 2021

5 Subject: Commerce and trade; consumer protection

6 Statement of purpose of bill as introduced: This bill proposes to prohibit

7 robocalls to the same extent as under federal law.

8 An act relating to prohibiting robocalls

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 ~~Sec. 1. 9 V.S.A. § 2464a is added to read:~~

11 § 2464c. ROBOCALLS; PROHIBITION; PENALTY

12 (a) A person shall not initiate a telephone call to a Vermont consumer using

13 an automatic telephone dialing system or an artificial or prerecorded voice in

14 violation of the federal Telephone Consumer Protection Act, 47 U.S.C. § 227,

15 or the federal Telemarketing and Consumer Fraud and Abuse Prevention Act,

16 15 U.S.C. §§ 6101–6108, and the regulations adopted pursuant to those laws.

17 (b) Civil violation.

18 (1) A violation of this section constitutes a violation of section 2453 of

19 this title.

1 ~~(2) Each prohibited telephone call constitutes a separate violation under~~
2 ~~this subsection.~~

3 ~~(A) A person who receives a telephone call in violation of this~~
4 ~~section may bring an action in Superior Court for damages or a civil penalty,~~
5 ~~injunctive relief, punitive damages in the case of a willful violation, and~~
6 ~~reasonable costs and attorney's fees.~~

7 ~~(B) The court may issue an award for the greater of a person's~~
8 ~~damages or a civil penalty of \$500.00 for a first violation and \$1,000.00 for~~
9 ~~each subsequent violation.~~

10 ~~(c) Criminal penalties.~~

11 ~~(1) A person who violates this section shall be imprisoned for not more~~
12 ~~than 90 days or fined not more than \$1,000.00 per violation, or both.~~

13 ~~(2) Each telephone call constitutes a separate violation under this~~
14 ~~subsection.~~

15 ~~(d) The Attorney General shall exercise his or her authority and discretion~~
16 ~~to work cooperatively with other state and federal government entities to~~
17 ~~identify callers who initiate robocalls to consumers in violation of this section~~
18 ~~and to enforce the provisions of this section regardless of the location of the~~
19 ~~caller.~~

20 Sec. 2. EFFECTIVE DATE

21 ~~This act shall take effect on July 1, 2021.~~

Sec. 1. 9 V.S.A. § 2464e is added to read:

§ 2464e. ROBOCALLS; PROHIBITION; PENALTY

(a) Intent. It is the intent of the General Assembly in adopting this section:

(1) to create a State law prohibition on the use of automatic telephone dialing systems and on the placement of robocalls to Vermont consumers that is coextensive with the federal limitations created in the Telephone Consumer Protection Act and the Telemarketing and Consumer Fraud and Abuse Prevention Act; and

(2) to continue to permit certain robocalls to the extent they are allowed under federal law, including:

(A) calls made for an emergency purpose;

(B) calls made with the prior express written consent of the called party;

(C) calls conveying messages that are purely informational;

(D) calls concerning the collection of a debt but not including calls that attempt to sell consumers services to reduce debt;

(E) political calls;

(F) calls from health care providers; and

(G) messages from charities, provided that if the call originates from a person whom the charity hires to make a call on the charity's behalf, the call may only go to members of the charity or prior donors, and provided further that such callers include an automated option to allow a consumer to stop future calls.

(b) Definitions. As used in this section, "automatic telephone dialing system" means equipment that has the capacity:

(1) to store or produce telephone numbers to be called, using a random or sequential number generator; and

(2) to dial such numbers.

(c) Prohibition. A person shall not initiate a telephone call to a Vermont consumer using an automatic telephone dialing system or an artificial or prerecorded voice in violation of the federal Telephone Consumer Protection Act, 47 U.S.C. § 227, or the federal Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101–6108, and the regulations adopted pursuant to those laws.

(d) Civil violation.

(1) A violation of this section constitutes a violation of section 2453 of this title.

(2) Each prohibited telephone call constitutes a separate violation under this subsection.

(3)(A) A person who receives a telephone call in violation of this section may bring an action in Superior Court for damages or a civil penalty, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees.

(B) The court may issue an award for the greater of a person's damages or a civil penalty of \$500.00 for a first violation and \$1,000.00 for each subsequent violation.

(e) Criminal penalties.

(1) A person who violates this section shall be imprisoned for not more than 90 days or fined not more than \$1,000.00 per violation, or both.

(2) Each telephone call constitutes a separate violation under this subsection.

(f) The Attorney General shall exercise his or her authority and discretion to work cooperatively with other state and federal government entities to identify callers who initiate robocalls to consumers in violation of this section and to enforce the provisions of this section regardless of the location of the caller.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.