

COMMERCIAL CALLS: LIMIT CALLER ID BLOCKING

House Bill 5387 (Substitute H-2) First Analysis (2-3-98)

Sponsor: Rep. Penny Crissman
Committee: Public Utilities

THE APPARENT PROBLEM:

Many people feel that the use of telephone lines to deliver recorded commercial messages is an unwarranted inconvenience and an unwarranted violation of the recipient's privacy. The advent of caller identification technology, which allows a telephone subscriber to identify the telephone number of an incoming telephone call before answering, has given the those customers who have purchased it an opportunity to screen their incoming calls and refrain from answering those calls that are identifiable as coming from commercial callers. As a result, some commercial entities now block residential customer's caller identification when making commercial calls, so that the customer is unaware of the origin of the call before answering. Some feel that it is unfair and inappropriate for commercial callers to block residential customers use of caller identification and that this activity should be prohibited.

THE CONTENT OF THE BILL:

The bill would amend Public Act 206 of 1913, an act to regulate telephone business and use of telephone lines and equipment, to generally prohibit an in-state commercial caller from blocking caller identification during the delivery or attempted delivery of a commercial message. The prohibition would apply only to calls that originated and were delivered in this state.

The bill would apply the same penalties to callers who violated the prohibition against blocking caller identification technology as are currently applied to callers who violate the act by using recorded commercial telephone messages without the request or permission of the recipient. A violation would be a misdemeanor punishable by either imprisonment for 10 days, a fine of up to \$1,000, or both. The act also currently allows the recipient of a prohibited recorded commercial message to recover damages of not more than \$250, plus reasonable attorneys' fees. The bill would increase the amount of damages that the recipient could recover to \$1,000 plus

reasonable attorneys' fees and allow this amount to be recovered by individuals who received either recorded commercial messages or had their caller identification blocked in violation of the act's provisions.

MCL 484.125

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact. (1-30-98)

ARGUMENTS:

For:

The bill would help to prevent the telephonic equivalent of a door-to-door salesperson crawling in through someone's window after having been denied access through the front door. With caller identification technology, if an incoming call can be identified as a coming from a telemarketer, the person receiving the call can decide whether or not to answer based upon that knowledge. If commercial callers are allowed to block caller identification they are able to prevent the person receiving the call from denying them access. The bill does not attempt to prohibit telephone solicitation, it merely seeks to prevent commercial callers from using unfair tactics to get people on the line. Caller identification technology offers individuals an opportunity to identify the caller on incoming calls and thereby decide which calls to answer. When someone uses this option to avoid answering commercial calls, he or she should be able to expect that legitimate commercial entities will not seek to obstruct this decision by use of technological counter-measures. It should be up to the individual to decide whether or not he or she wishes to speak to a particular caller. Rather than circumventing the desires of people who wish to avoid their telephonic sales pitches, companies should consider why it is that people are so eager to screen out their calls.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

Against:

The bill is both unnecessary and unfair. It proposes yet another restriction on telemarketing, without anything more than anecdotal evidence of abuses. Granted, the relative unpopularity of telemarketing makes it an easy target for this type of overregulation; however, the small number of fly-by-night companies that might engage in this behavior will probably not behave differently as a result of this bill.

Against:

The bill fails to take into account that not all telemarketing equipment contains automatic number identification. If the caller's equipment does not have automatic number identification the recipient's caller identification will not be able to identify the source of the call. This could mean that some telemarketing businesses with older equipment could find themselves liable under the bill without having actively attempted to block the recipient's caller ID. This leaves these businesses in the unenviable position of having to choose between risking violation of the law or purchasing new equipment.

Against:

The bill goes too far. Even if the restriction against the use of caller identification blocking is warranted it should at least be limited to situations where the person receiving the call has not requested or authorized the call or provided his or her phone number to the caller.

POSITIONS:

The Michigan Consumer Federation supports the bill.
(1-28-98)

AT&T supports the concept of the bill. (2-2-98)

Analyst: W. Flory
