

By: McCall

H.B. No. 2553

Substitute the following for H.B. No. 2553:

By: Cook of Colorado

C.S.H.B. No. 2553

A BILL TO BE ENTITLED

AN ACT

relating to the publication of mobile service customer telephone numbers by commercial mobile service providers; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 64, Utilities Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PUBLICATION OF MOBILE SERVICE CUSTOMER TELEPHONE NUMBERS

Sec. 64.201. DEFINITION. In this subchapter, "commercial mobile service provider" means a provider of commercial mobile service as defined by Section 332(d), Communications Act of 1934 (47 U.S.C. Section 151 et seq.), Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993 (Pub. L. No. 103-66).

Sec. 64.202. CONSENT REQUIRED. (a) A commercial mobile service provider doing business in this state may not publish in a directory or provide for publication in a directory the name and telephone number of a mobile service customer in this state without the express consent of the customer. The consent of a customer must be given:

(1) in writing on a separate document that includes the customer's signature and the date;

(2) verbally; or

1           (3) on a website maintained by the commercial mobile  
2 service provider.

3           (b) Before a customer consents under Subsection (a), a  
4 commercial mobile service provider must disclose to the customer in  
5 writing or verbally, as appropriate, that:

6           (1) by consenting the customer agrees to have the  
7 customer's telephone number sold or licensed as part of a list of  
8 customers and the customer's telephone number may be included in a  
9 publicly available directory; and

10           (2) if the customer's calling plan bills the customer  
11 for unsolicited calls or text messages from a telemarketer, by  
12 consenting to have the customer's telephone number sold or licensed  
13 as part of a list of customers or be included in a publicly  
14 available directory, the customer may incur additional charges for  
15 receiving unsolicited calls or text messages.

16           (c) A customer who consents under Subsection (a) may revoke  
17 that consent at any time. A commercial mobile service provider  
18 shall comply with the customer's request not later than the 60th day  
19 after the date the request is made.

20           (d) A commercial mobile service provider may not bill a  
21 mobile services customer for not consenting under Subsection (a).

22           Sec. 64.203. VIOLATIONS. (a) The attorney general may  
23 investigate violations of this subchapter and file civil  
24 enforcement actions seeking injunctive relief, attorney's fees,  
25 and civil penalties in an amount not to exceed \$1,000 for each  
26 violation. If the court finds the defendant wilfully or knowingly  
27 violated this subchapter, the court may increase the amount of the

1 civil penalties to an amount not to exceed \$3,000 for each  
2 violation.

3 (b) Chapter 15 does not apply to a violation of this  
4 subchapter.

5 SECTION 2. This Act takes effect September 1, 2005.