

Oregon Department of Justice

Office of the Attorney General

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HB 2759: A CALL FOR ACCOUNTABILITY

Background:

Unwanted robocalls are a national problem. According to reports, US consumers received over 50.3 billion robocalls in 2022.¹ One study found that over 68.4 million Americans lost an estimated \$39.5 billion to phone scams in 2022.² Advancements in technology make these calls cheap to make and easy to disguise. Many of these calls originate from all over the world, making it difficult for federal and state regulators to hold bad actors accountable.

But these calls do not get to Oregon on their own. These calls must enter the United States through a gateway provider and then travel through any number of intermediate telemarketing providers before finally being delivered to your phone. The same technological advances that make it easy to make billions of calls allows these providers to tell, in near real time, whether calls they allow to pass through their system carry the hallmarks of scam calls through various analytics.

Any one of these providers has the ability and opportunity to stop a call from reaching you. Often these companies are actively choosing to ignore suspicious activity because carrying more calls means more profit for them.

In 2019, Congress enacted the Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act and since then the FCC has implemented numerous rules designed to fight back against illegal robocalls, including the requirement that networks implement a technology called “Stir/Shaken” to help validate and authenticate calls and requiring gateway providers to verify calls before allowing them into the country.

¹<https://www.prnewswire.com/news-releases/robocalls-top-50-3-billion-in-2022--matching-2021-call-volumes-despite-enforcement-efforts-301714297.html#:~:text=IRVINE%2C%20Calif.%2C%20Jan.,government%20regulators%20and%20state%20officials>.

² <https://www.truecaller.com/blog/insights/truecaller-insights-2022-us-spam-scram-report>

Other states, including Washington, Oklahoma, and Georgia are also taking action to bolster their own state laws.³

Concept:

HB 2759 will amend Oregon's anti-robocall statutes, ORS 646.569 and ORS 646A.374 so that telemarketing companies that carry traffic they know (or consciously avoid knowing) is illegal are liable for those calls. Under Oregon law, it is illegal to call someone on the do-not-call list or to make scam robocalls. But because so many of these calls come from overseas it can be near impossible to hold the call originators accountable under current Oregon law. These changes would more closely align Oregon's law with federal law found in the Telephone Sales Rule, 16 CF 310.3(4) and would encourage telemarketing providers to police the traffic they allow through their systems or face liability.

Some may argue that this bill would increase exposure to frivolous lawsuits. However, the bill as proposed mirrors federal law, and the requirement that someone must "know or consciously avoid knowing" that the traffic they carry is already illegal precludes liability for an inadvertent mistake. Fortunately, many stakeholders understand and agree that stopping illegal and unwanted robocalls is a necessity. In fact, some of the largest voice service providers have been working with state Attorneys General to stop the scourge of scam calls flooding the United States.⁴

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³ <https://www.atg.wa.gov/news/news-releases/ag-ferguson-rep-leavitt-propose-legislation-holding-telecommunications-providers>. See also <https://www.manatt.com/insights/newsletters/tcpa-connect/state-telemarketing-laws-popping-up-around-the-cou#collapseNewsletter>

⁴ <https://www.ustelecom.org/wp-content/uploads/2019/08/State-AGs-Providers-AntiRobocall-Principles-With-Signatories.pdf>