COMMITTEE REPORT

March 28, 2012

**S. 1004**

Introduced by Senators Cromer and Ford

S. Printed 3/28/12--S.

Read the first time January 10, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1004) to amend Section 16‑17‑445 of the 1976 Code, relating to the regulation of unsolicited consumer telephone calls, to provide that telephone solicitors must include accurate identifying, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 1 in its entirety and inserting:

/ SECTION 1. Article 7, Chapter 17, Title 16 of the 1976 Code is amended by adding:

“Section 16-17-447. (A) For purposes of this section:

(1) ‘Call’ means a telephone call made using a public switched telephone network, wireless cellular telephone service, or other Voice-Over-Internet Protocol (VOIP) service that has the capability of accessing users on the public switched telephone network or a successor network.

(2) ‘Caller’ means a person who places a call by a telephone, over a telephone line, or on a computer.

(3) ‘Caller identification system’ means a listing of a caller’s name, telephone number, or name and telephone number that is shown to a recipient of a call when the call is received.

(4) ‘Enter’ means to input data into a computer or telephone system.

(5) ‘False information’ means data that misrepresents the caller’s identity to the recipient of a call or the network itself; however, when a person making an authorized call on behalf of another person inserts the name, telephone number, or name and telephone number of the person on whose behalf the call is being made, such information must not be deemed false information.

(B) It is unlawful for a person to enter or cause to be entered false information into a caller identification system with the intent to deceive, defraud, or mislead the recipient of a call.

(C) It is unlawful for a person to place a call knowing that false information was entered into a caller identification system with the intent to deceive, defraud, or mislead the recipient of a call.

(D) This section does not apply to:

(1) the blocking of caller identification information;

(2) a law enforcement agency;

(3) an intelligence or security agency of the United States government; or

(4) a telecommunications, broadband, or Voice-Over-Internet Protocol (VOIP) service provider that is acting solely as an intermediary for the transmission of telephone service between a caller and a recipient.

(E)(1) The Department of Consumer Affairs shall investigate complaints received concerning violations of this section. If the Department of Consumer Affairs has reason to believe that there has been a violation, the Department of Consumer Affairs may request a contested case hearing before the Administrative Law Court to impose a civil penalty not to exceed one hundred dollars for a first violation, two hundred dollars for a second violation, and one thousand dollars for a third or subsequent violation. The Department of Consumer Affairs may also bring a civil action in the Court of Common Pleas seeking other relief, including injunctive relief, as the court considers appropriate against a person who violates this section. The Department of Consumer Affairs may request that the Administrative Law Court or the Court of Common Pleas, as applicable, order a person who violates this section to pay the cost of investigating the violation. Each violation constitutes a separate offense for purposes of this section.

(2) In addition, a person who violates this section is guilty of a misdemeanor and, upon conviction, for a first or second offense, must be fined not more than two hundred dollars or imprisoned for not more than thirty days, and for a third or subsequent offense must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. Each violation constitutes a separate offense for purposes of this section. A law enforcement agency investigating a violation of this section may request that the court order the person who committed the violation to pay the cost of investigating the violation.” /

Renumber sections to conform.

Amend title to conform.

JOHN M. KNOTTS, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Consumer Affairs estimates this bill will have no fiscal impact on the state general fund or on federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 16‑17‑445 OF THE 1976 CODE, RELATING TO THE REGULATION OF UNSOLICITED CONSUMER TELEPHONE CALLS, TO PROVIDE THAT TELEPHONE SOLICITORS MUST INCLUDE ACCURATE IDENTIFYING INFORMATION ON CALLER IDENTIFICATION DISPLAYS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑17‑445 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) Every telephone solicitor operating in this State who makes unsolicited consumer telephone calls shall display on caller identification the solicitor’s telephone number and, if possible, the solicitor’s name, or the telephone number, and if possible, the name of the entity for which they are soliciting. The display must include a telephone number that the subscriber may call during regular business hours to request that the telephone solicitor remove the subscriber from call lists pursuant to subsection (E) of this section. The department has the authority to monitor compliance with this provision.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑