Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1090 (Delegate Afzali)
Economic Matters Finance

Consumer Protection - Caller ID Spoofing Ban of 2018

This bill prohibits an individual or person from performing "caller ID spoofing" when contacting another individual or person in the State with the intent to defraud, harass, cause harm to, or obtain anything of value. The bill defines "caller ID spoofing" as the practice of using an application or other technology for a telephone to block the caller's true location and instead show a false location that appears to be local to the individual receiving the call. The bill does not apply to (1) the blocking of caller identification information; (2) a federal, State, county, or municipal law enforcement agency; (3) a federal intelligence or security agency; or (4) telecommunications, broadband, or Voice Over Internet Protocol service providers that act as transmission intermediaries, provide services, or engage in authorized conduct, as specified. Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill's requirements with existing resources.

Local Effect: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law/Background: According to the Federal Communications Commission (FCC), "spoofing" occurs when a caller deliberately falsifies the information transmitted to a caller ID display to disguise his or her identity. Spoofing is often used as part of an attempt to trick someone into giving away valuable personal information so it can be used in fraudulent activity or sold illegally. U.S. law and FCC rules prohibit most types of spoofing. Caller ID lets consumers avoid unwanted phone calls by displaying caller names and phone numbers, but the caller ID feature is sometimes manipulated by spoofers who masquerade as representatives of banks, creditors, insurance companies, or even the government.

Under the Truth in Caller ID Act, FCC rules prohibit any person or entity from transmitting misleading or inaccurate caller ID information *with the intent to defraud, cause harm, or wrongly obtain anything of value.* If no harm is intended or caused, spoofing is not illegal. However, FCC notes that anyone who is illegally spoofing can face penalties of up to $10,000 for each violation. In some cases, spoofing can be permitted by courts for people who have legitimate reasons to hide their information, such as law enforcement agencies working on cases, victims of domestic abuse, or doctors who wish to discuss private medical matters.

Maryland law does not address caller ID spoofing. However, § 8-205 of the Public Utilities Article prohibits a telephone solicitor from blocking (or otherwise preventing or controlling) the transmission of the person's telephone number to a recipient. A person who violates the prohibition is guilty of a misdemeanor, and on conviction, is subject to a fine of up to $1,000 for the first offense and up to $5,000 for each subsequent offense.

An unfair or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to $1,000 for the first violation and up to $5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to $1,000 and/or imprisonment for up to one year.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Federal Communications Commission; Office of the Attorney General (Consumer Protection Division); Department of Legislative Services

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