

1 AN ACT relating to caller identification services.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 367.46955 is amended to read as follows:

4 It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951
5 to 367.46999 for any person making a telephone solicitation **through**
6 **telecommunications services or interconnected Voice over Internet Protocol or VoIP**
7 **service** to engage in the following conduct:

- 8 (1) Advertising or representing that registration as a telemarketer equals an
9 endorsement or approval by any government or governmental agency;
- 10 (2) Requesting a fee in advance to remove derogatory information from or improve a
11 person's credit history or credit record;
- 12 (3) Requesting or receiving a payment in advance from a person to recover or otherwise
13 aid in the return of money or any other item lost by the consumer in a prior
14 telephone solicitation transaction;
- 15 (4) Requesting or receiving payment of any fee or consideration in advance of
16 obtaining a loan or other extension of credit when the telemarketing company has
17 guaranteed or represented a high likelihood of success in obtaining or arranging a
18 loan or other extension of credit for a person;
- 19 (5) Obtaining or submitting for payment a check, draft, or other form of negotiable
20 paper drawn on a person's checking, savings, or bond or other account without the
21 consumer's express written authorization, or charging a credit card account or
22 making electronic transfer of funds except in conformity with KRS 367.46963;
- 23 (6) Procuring the services of any professional delivery, courier, or other pickup service
24 to obtain immediate receipt or possession of a consumer's payment, unless the
25 goods are delivered with the opportunity to inspect before any payment is collected;
- 26 (7) Assisting, supporting, or providing substantial assistance to any telemarketer when
27 the telemarketing company knew or should have known that the telemarketer was

- 1 engaged in any act or practice prohibited under this section;
- 2 (8) Making a telephone solicitation to anyone under eighteen (18) years of age. When
3 making a telephone solicitation the telemarketer shall inquire as to whether the
4 person is eighteen (18) years of age or older and the answer shall be presumed to be
5 correct;
- 6 (9) Utilizing any method to block or otherwise circumvent the use of a caller
7 identification service when placing an unsolicited telephone solicitation call,
8 including but not limited to through the use of telecommunications services or
9 interconnected Voice over Internet Protocol or VoIP, to knowingly cause any
10 caller identification service to transmit misleading or inaccurate caller
11 identification information with the intent to defraud or cause harm to another
12 person or to wrongfully obtain anything of value;
- 13 (10) Directing or permitting employees to use a fictitious name or not to use their name
14 while making a telephone solicitation;
- 15 (11) Threatening, intimidating, or using profane or obscene language;
- 16 (12) Causing the telephone to ring more than thirty (30) seconds in an intended
17 telephone solicitation;
- 18 (13) Engaging any person repeatedly or continuously with behavior a reasonable person
19 would deem to be annoying, abusive, or harassing;
- 20 (14) Initiating a telephone solicitation call to a person, when that person has stated
21 previously that he or she does not wish to receive solicitation calls from that seller;
- 22 (15) Making or causing to be made an unsolicited telephone solicitation call if the
23 residential number for that telephone appears in the current publication of the
24 national Do Not Call Registry maintained by the United States Federal Trade
25 Commission;
- 26 (16) Making telephone solicitations to a person's residence at any time other than
27 between 10 a.m. - 9 p.m. local time, at the called person's location;

- 1 (17) Selling or making available for economic gain any information revealed during a
2 telephone solicitation without the express written consent of the consumer;
- 3 (18) Making a telephone solicitation to any residential telephone using an artificial or
4 prerecorded voice to deliver a message, unless the call is initiated for emergency
5 purposes by schools regulated by the Kentucky Department of Education or the call
6 is made with the prior express consent of the called party; or
- 7 (19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a
8 telephone solicitation.

9 ➔Section 2. KRS 367.46999 is amended to read as follows:

10 **(1)** Any person, including, but not limited to, a merchant, a telemarketer, a salesperson,
11 agent or representative of the merchant, or an independent contractor, who
12 knowingly violates any provision of KRS 367.46951 to 367.46999 or engages in
13 any act, practice, or course of business which operates or would operate as fraud or
14 deceit upon any person in connection with a sale shall be guilty of a Class D felony,
15 except that any person who violates KRS 367.46955(7) to (16) shall be guilty of a
16 Class B misdemeanor for the first offense and a Class A misdemeanor for any
17 subsequent offense.

18 **(2) Notwithstanding any other provision of law, in addition to the penalties provided**
19 **in this section, any person found guilty of violating subsection (9) of Section 1 of**
20 **this Act shall:**

21 **(a) Be fined no less than five hundred dollars (\$500) for the first offense and**
22 **one thousand dollars (\$1,000) for any subsequent offense; and**

23 **(b) Pay restitution of any financial benefit secured through conduct proscribed**
24 **by subsection (9) of Section 1 of this Act.**

25 **(3)** The Office of the Attorney General shall have concurrent enforcement powers as to
26 such felonies and misdemeanors.