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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3099

02/11/2020 Authored by Stephenson, Winkler, Tabke, Lislegard, Nelson, M., and others
The bill was read for the first time and referred to the Committee on Commerce
03/16/2020 Adoption of Report: Amended and re-referred to the Judiciary Finance and Civil Law Division

1.1 A bill for an act
1.2 relating to telecommunications; prohibiting false caller identification information;
1.3 providing for criminal penalties; amending Minnesota Statutes 2018, sections
1.4 325E.26, by adding subdivisions; 325E.31; 609.527, subdivision 3; Minnesota
1.5 Statutes 2019 Supplement, section 609.52, subdivision 3; proposing coding for
1.6 new law in Minnesota Statutes, chapter 325E.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 325E.26, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 7. Caller identification service. "Caller identification service" means a feature
1.11 that displays a caller's name, phone number, or location on a call recipient's telephone or
1.12 wireless communications device before the call is answered.

1.13 EFFECTIVE DATE. This section is effective the day following final enactment.

1.14 Sec. 2. Minnesota Statutes 2018, section 325E.26, is amended by adding a subdivision to
1.15 read:

1.16 Subd. 8. Telecommunications service provider. "Telecommunications service provider"
1.17 has the meaning given in section 237.01, subdivision 6b.

1.18 EFFECTIVE DATE. This section is effective the day following final enactment.

2.1 Sec. 3. Minnesota Statutes 2018, section 325E.26, is amended by adding a subdivision to
2.2 read:

2.3 Subd. 9. **Text message.** "Text message" means a transmission that occurs over a wireless
2.4 messaging service that is capable of generating, acquiring, storing, and making available
2.5 information via telecommunications. Text message includes text transmissions, commonly
2.6 referred to as short message service, and pictures, videos, and attachments, commonly
2.7 referred to as multimedia messaging service, when transmitted over wireless messaging
2.8 channels.

2.9 Sec. 4. **[325E.281] FALSE CALLER IDENTIFICATION INFORMATION;**
2.10 **PROHIBITION.**

2.11 Subdivision 1. **Prohibition.** (a) It is unlawful to display or cause to be displayed, or to
2.12 use a third party to display or cause to be displayed, a fraudulent or inaccurate name or
2.13 telephone number, or the name or telephone number of the recipient of the
2.14 telecommunication, on a Minnesota resident's caller identification service or in a
2.15 telecommunication sent as a text message.

2.16 (b) This subdivision does not apply to:

2.17 (1) the transmission of a caller identification service by a telecommunications service
2.18 provider:

2.19 (i) that has received a determination by the Office of the Attorney General that the
2.20 telecommunications provider is in compliance with subdivision 2, based on its most recent
2.21 filing made under subdivision 2;

2.22 (ii) during the interval between the effective date of this act and the date the Office of
2.23 the Attorney General makes an initial determination regarding a telecommunications service
2.24 provider's compliance with subdivision 2;

2.25 (iii) during the interval between the date a telecommunications service provider's
2.26 submission of the information required under subdivision 2 and the date the Office of the
2.27 Attorney General determines whether the information submitted is sufficient evidence that
2.28 the telecommunications service provider is in compliance with subdivision 2; and

2.29 (iv) that has been issued a waiver by the Office of the Attorney General under subdivision
2.30 2;

2.31 (2) any lawful, authorized investigative, protective, or intelligence activity of a law
2.32 enforcement agency of any state, a political subdivision of a state, or the United States;

3.1 (3) an activity engaged in under a court order that specifically authorizes the use of caller
3.2 identification manipulation;

3.3 (4) caller identification manipulation used by a domestic violence shelter to protect the
3.4 safety of its residents;

3.5 (5) a telecommunications service provider that blocks or restricts a name, phone number,
3.6 or location from being displayed on a subscriber's caller identification service; or

3.7 (6) a health care professional contacting a patient, a patient's legal representative, or a
3.8 patient's family member regarding the patient's diagnosis, treatment, or services.

3.9 **Subd. 2. Call blocking by telecommunications providers; annual certification. (a)**
3.10 Each telecommunications service provider serving subscribers in this state must annually
3.11 file with the Office of the Attorney General evidence, as required by the Office of the
3.12 Attorney General, that the telecommunications service provider has implemented
3.13 commercially available technologies that identify and block telecommunications that violate
3.14 this section for all of its Minnesota subscribers and at no cost to those subscribers, taking
3.15 into consideration applicable state and federal laws and regulations, agreements that the
3.16 telecommunications service provider has entered into with state or federal authorities with
3.17 respect to the implementation of blocking fictitious or misleading names or telephone
3.18 numbers on a subscriber's caller identification service, and costs.

3.19 (b) The Office of the Attorney General may issue a telecommunications service provider
3.20 a waiver from the requirements of this subdivision if the Office of the Attorney General
3.21 determines, based on information filed by the telecommunications service provider, that
3.22 the provision of call-blocking technology to its subscribers required under this subdivision
3.23 is technically infeasible or imposes an undue financial burden on the telecommunications
3.24 service provider. A waiver issued by the Office of the Attorney General under this paragraph
3.25 is effective for one year and may be renewed according to this paragraph in order to remain
3.26 effective.

3.27 (c) A subscriber may elect to opt out of a telecommunications service provider's call
3.28 blocking service.

3.29 (d) A telecommunications service provider must fulfill a subscriber's oral or written
3.30 request to block transmission of calls originating from a specific telephone number within
3.31 20 days of receiving the request. A telecommunications service provider may charge the
3.32 subscriber for providing that service.

4.1 (e) The Office of the Attorney General must develop policies and procedures to assist
4.2 in making a determination regarding a telecommunications service provider's compliance
4.3 with paragraph (a).

4.4 (f) The state of Minnesota is prohibited from entering into a contract with a
4.5 telecommunications service provider that the Office of the Attorney General determines
4.6 does not comply with this section.

4.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.8 Sec. 5. Minnesota Statutes 2018, section 325E.31, is amended to read:

4.9 **325E.31 REMEDIES.**

4.10 (a) A person who is found to have violated sections 325E.27 to 325E.30 is subject to
4.11 the penalties and remedies, including a private right of action to recover damages, as provided
4.12 in section 8.31.

4.13 (b) A person found to have violated section 325E.281 may be required to pay a fine of
4.14 not more than \$1,000 for each separate violation, except that:

4.15 (1) if the prohibited call resulted in identity theft or theft by swindle, the penalty is as
4.16 provided in section 609.52, subdivision 3, clause (3); and

4.17 (2) a person must not receive a penalty for an initial violation of section 325E.281, unless
4.18 the prohibited call resulted in identity theft or theft by swindle.

4.19 (c) A subscriber aggrieved by a violation of section 325E.281 has a private right of
4.20 action under this section and may seek appropriate injunctive or other equitable relief,
4.21 additional civil damages, actual losses, and, as determined by the court, reasonable attorney
4.22 fees and court costs. A private right of action brought under this section by a subscriber is
4.23 in the public interest.

4.24 (d) Nothing in this section limits any remedies, causes of action, or penalties available
4.25 to a person or government agency under any other federal or state law.

4.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.27 Sec. 6. Minnesota Statutes 2019 Supplement, section 609.52, subdivision 3, is amended
4.28 to read:

4.29 Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

5.1 (1) to imprisonment for not more than 20 years or to payment of a fine of not more than
5.2 \$100,000, or both, if the property is a firearm, or the value of the property or services stolen
5.3 is more than \$35,000 and the conviction is for a violation of subdivision 2, clause (3), (4),
5.4 (15), (16), or (19), or section 609.2335, subdivision 1, clause (1) or (2), item (i); or

5.5 (2) to imprisonment for not more than ten years or to payment of a fine of not more than
5.6 \$20,000, or both, if the value of the property or services stolen exceeds \$5,000, or if the
5.7 property stolen was an article representing a trade secret, an explosive or incendiary device,
5.8 or a controlled substance listed in Schedule I or II pursuant to section 152.02 with the
5.9 exception of marijuana; or

5.10 (3) to imprisonment for not more than five years or to payment of a fine of not more
5.11 than \$10,000, or both, if any of the following circumstances exist:

5.12 (a) the value of the property or services stolen is more than \$1,000 but not more than
5.13 \$5,000; or

5.14 (b) the property stolen was a controlled substance listed in Schedule III, IV, or V pursuant
5.15 to section 152.02; or

5.16 (c) the value of the property or services stolen is more than \$500 but not more than
5.17 \$1,000 and the person has been convicted within the preceding five years for an offense
5.18 under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582, subdivision
5.19 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state, the United
5.20 States, or a foreign jurisdiction, in conformity with any of those sections, and the person
5.21 received a felony or gross misdemeanor sentence for the offense, or a sentence that was
5.22 stayed under section 609.135 if the offense to which a plea was entered would allow
5.23 imposition of a felony or gross misdemeanor sentence; or

5.24 (d) the value of the property or services stolen is not more than \$1,000, and any of the
5.25 following circumstances exist:

5.26 (i) the property is taken from the person of another or from a corpse, or grave or coffin
5.27 containing a corpse; or

5.28 (ii) the property is a record of a court or officer, or a writing, instrument or record kept,
5.29 filed or deposited according to law with or in the keeping of any public officer or office; or

5.30 (iii) the property is taken from a burning, abandoned, or vacant building or upon its
5.31 removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing,
5.32 or the proximity of battle; or

6.1 (iv) the property consists of public funds belonging to the state or to any political
6.2 subdivision or agency thereof; or

6.3 (v) the property stolen is a motor vehicle; or

6.4 (vi) the property was obtained through a violation of subdivision 2, paragraph (a), clause
6.5 (4), that occurred as a result of a telecommunication prohibited under sections 325E.27 to
6.6 325E.29; or

6.7 (4) to imprisonment for not more than one year or to payment of a fine of not more than
6.8 \$3,000, or both, if the value of the property or services stolen is more than \$500 but not
6.9 more than \$1,000; or

6.10 (5) in all other cases where the value of the property or services stolen is \$500 or less,
6.11 to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000,
6.12 or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3),
6.13 (4), (13), and (19), the value of the money or property or services received by the defendant
6.14 in violation of any one or more of the above provisions within any six-month period may
6.15 be aggregated and the defendant charged accordingly in applying the provisions of this
6.16 subdivision; provided that when two or more offenses are committed by the same person
6.17 in two or more counties, the accused may be prosecuted in any county in which one of the
6.18 offenses was committed for all of the offenses aggregated under this paragraph.

6.19 Sec. 7. Minnesota Statutes 2018, section 609.527, subdivision 3, is amended to read:

6.20 Subd. 3. **Penalties.** A person who violates subdivision 2 may be sentenced as follows:

6.21 (1) if the offense involves a single direct victim and the total, combined loss to the direct
6.22 victim and any indirect victims is \$250 or less, the person may be sentenced as provided in
6.23 section 609.52, subdivision 3, clause (5);

6.24 (2) if the offense involves a single direct victim and the total, combined loss to the direct
6.25 victim and any indirect victims is more than \$250 but not more than \$500, the person may
6.26 be sentenced as provided in section 609.52, subdivision 3, clause (4);

6.27 (3) if the offense involves two or three direct victims or the total, combined loss to the
6.28 direct and indirect victims is more than \$500 but not more than \$2,500, the person may be
6.29 sentenced as provided in section 609.52, subdivision 3, clause (3);

6.30 (4) if the offense involves more than three but not more than seven direct victims, or if
6.31 the total combined loss to the direct and indirect victims is more than \$2,500, the person
6.32 may be sentenced as provided in section 609.52, subdivision 3, clause (2); ~~and~~

7.1 (5) if the offense involves eight or more direct victims; or if the total, combined loss to
7.2 the direct and indirect victims is more than \$35,000; or if the offense is related to possession
7.3 or distribution of pornographic work in violation of section 617.246 or 617.247; the person
7.4 may be sentenced as provided in section 609.52, subdivision 3, clause (1); and

7.5 (6) if the offense is accomplished by a telecommunication prohibited under sections
7.6 325E.27 to 325E.29, the offense is a felony, irrespective of the number of victims or the
7.7 value of the loss to the victims, and the person may be sentenced as provided in section
7.8 609.52, subdivision 3, clause (3).