Senate Bill 46

By: Senators Shafer of the 48th, Staton of the 18th, Cagle of the 49th, Heath of the 31st and Chance of the 16th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Part 1 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service in general, so as to provide that suppliers of wireless telephone service providing directory information shall not include wireless service dialing numbers without the express consent of a subscriber; to provide for terms and conditions; to provide exceptions and authorize waivers; to prohibit provision of certain information to telemarketers under certain circumstances; to provide for civil enforcement and immunity from certain liability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service in general, is amended by adding at its end a new Code Section 46-5-28 to read as follows:

"46-5-28.

(a) As used in this Code section, the term:

(1) 'Service supplier' means a person or entity who provides wireless service to a telephone subscriber.

(2) 'Traditional telephone directory' means a telephone directory, in any format, containing a majority of the landline telephone numbers for the given geographic coverage area for that directory.

(3) 'Wireless service' means 'commercial mobile service' as defined under Section 332(D) of the Federal Telecommunications Act of 1996 (47 U.S.C. Section 157, et seq.), regulations of the Federal Communications Commission, and the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) and includes real-time, two-way interconnected voice service which is provided over networks which utilize intelligent switching capability and offer seamless handoff to customers. The term does not include one-way

signaling service, data transmission service, nonlocal radio access line service, or a private telecommunications service.

(4) 'Wireless telephone database' means any collection of telephone numbers that identifies the names and telephone numbers of multiple subscribers of one or more service suppliers.

(b) A service supplier or any direct or indirect affiliate or agent of a service supplier providing the name and dialing number of a subscriber for inclusion in any wireless telephone database which is or will be made publicly available shall not include the dialing number of any wireless service subscriber without first obtaining the express consent of that subscriber. The subscriber´s consent shall meet all of the following requirements:

(1) It shall be recorded in oral, electronic, or written form;

(2) It shall be:

(A) A separate document that is not attached to any other document or if it is within another document shall be in a separate section of the document that includes the disclosure;

(B) A separate screen or if it is within another screen shall be in a separate section of the screen that includes the disclosure; or

(C) A sound recording of a discrete verbal confirmation;

(3) It shall be unambiguous and conspicuously disclose that the subscriber is consenting to have the subscriber´s dialing number sold or licensed as part of a publicly accessible wireless telephone database; and

(4) The service supplier must disclose in an unambiguous and conspicuous manner to the wireless customer that upon consent: (A) the customer is agreeing to have his or her wireless number accessed by anyone who utilizes the wireless telephone database; and (B) if the customer has a rate plan that charges the customer for usage, that calls received as a result, unsolicited or otherwise, will be applied against the subscriber´s planned minutes.

(c) A subscriber who provides express consent pursuant to subsection (b) of this Code section may revoke that consent at any time. A service supplier shall comply with the subscriber´s request to opt out within a reasonable period of time, not to exceed 60 days.

(d) A subscriber shall not be charged for making the choice to not be listed in a publicly accessible wireless telephone database.

(e) This Code section does not apply to the provision of telephone numbers to the following parties for the purposes indicated; provided, however, that such parties shall use such telephone numbers solely for the purposes indicated and shall not transfer such telephone numbers to any third party:

(1) Any law enforcement agency, fire protection agency, public health agency, public environmental health agency, city or county emergency services planning agency, or private for-profit agency operating under contract with, and at the direction of, one or more of these agencies, for the exclusive purpose of responding to a 911 call or communicating an imminent threat to life or property. This information or these records shall not be open to examination for any purpose not directly connected with the administration of the services specified in this paragraph;

(2) A lawful process issued under state or federal law;

(3) A service supplier providing service between service areas for the provision to the subscriber of telephone service between service areas, or third parties for the limited purpose of providing collection and billing services for the service supplier;

(4) A service supplier to effectuate a subscriber´s request to transfer the subscriber´s assigned telephone number from the subscriber´s existing service supplier to a new service supplier;

(5) The commission; or

(6) A traditional telephone directory publisher, for the purposes of publishing a directory in any format, so long as the information was published before the effective date of this Code section.

(f) Subsequent to the effective date of this Code section, a traditional telephone directory publisher must obtain the wireless subscriber´s recorded oral, electronic, or written consent for the wireless subscriber´s name and wireless dialing number to be published in a traditional telephone directory.

(g) No service supplier shall sell or otherwise provide a list of wireless numbers to any telemarketer except that such numbers may be provided to a telemarketer affiliated with the service supplier for the sole purpose of facilitating communication by or on behalf of the service supplier as permitted under subparagraph (b)(3)(B) of Code Section 46-5-27.

(h) Every deliberate violation of this Code section is grounds for a civil suit by the aggrieved subscriber against the service supplier responsible for the violation.

(i) No service supplier shall be subject to criminal or civil liability for the release of customer information as authorized by this Code section.″

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.