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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **812**

02/08/2021 Authored by Edelson, Stephenson and Lippert
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

- 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 2020, sections
- 1.4 325E.26, by adding subdivisions; 609.52, subdivision 3; 609.527, subdivision 3;
- 1.5 proposing coding for new law in Minnesota Statutes, chapter 325E; repealing
- 1.6 Minnesota Statutes 2020, section 325E.31.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2020, 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 2020, section 325E.26, is amended by adding a subdivision to
- 1.15 read:
- 1.16 Subd. 8. **Commission.** "Commission" means the Minnesota Public Utilities Commission.
- 1.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 1.18 Sec. 3. Minnesota Statutes 2020, section 325E.26, is amended by adding a subdivision to
- 1.19 read:
- 1.20 Subd. 9. **Telecommunications service provider.** "Telecommunications service provider"
- 1.21 has the meaning given in section 237.01, subdivision 6b.

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

2.2 Sec. 4. **[325E.281] FALSE CALLER IDENTIFICATION INFORMATION;**
2.3 **PROHIBITION.**

2.4 Subdivision 1. **Prohibition.** (a) It is unlawful to display or cause to be displayed, or to
2.5 use a third party to display or cause to be displayed, a fraudulent or inaccurate name or
2.6 telephone number, or the name or telephone number of the recipient of the
2.7 telecommunication, on a Minnesota resident's caller identification service.

2.8 (b) This subdivision does not apply to:

2.9 (1) the transmission of a caller identification service by a telecommunications provider
2.10 that has received a Public Utilities Commission determination that the telecommunications
2.11 provider is in compliance with subdivision 2, based on its most recent filing made under
2.12 subdivision 2;

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

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

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

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

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

2.23 Subd. 2. **Call blocking by telecommunications providers; annual certification.** (a)
2.24 Each telecommunications service provider serving subscribers in this state must annually
2.25 file with the commission evidence, as required by the commission, that the
2.26 telecommunications service provider has implemented current and applicable technologies
2.27 that identify and block telecommunications that violate this section for all of its Minnesota
2.28 subscribers and at no cost to those subscribers, taking into consideration applicable state
2.29 and federal laws and regulations, agreements that the telecommunications service provider
2.30 has entered into with state or federal authorities with respect to the implementation of
2.31 blocking fictitious or misleading names or telephone numbers on a subscriber's caller
2.32 identification service, and costs.

3.1 (b) A subscriber may elect to opt out of a telecommunications service provider's call
3.2 blocking service.

3.3 (c) A telecommunications service provider must fulfill a subscriber's oral or written
3.4 request to block transmission of calls originating from a specific telephone number within
3.5 20 days of receiving the request. A telecommunications service provider may charge the
3.6 subscriber for providing that service.

3.7 (d) The commission must develop policies and procedures to assist in making a
3.8 determination regarding a telecommunications service provider's compliance with paragraph
3.9 (a).

3.10 (e) The state of Minnesota is prohibited from entering into a contract with a
3.11 telecommunications service provider that the commission determines does not comply with
3.12 this section.

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

3.14 Sec. 5. **[325E.3105] ENFORCEMENT; REMEDIES.**

3.15 (a) A violation of sections 325E.27 to 325E.30 is a felony.

3.16 (b) Sections 325E.27 to 325E.30 may be enforced by the commissioner of commerce
3.17 under section 45.027, or by the attorney general under section 8.31.

3.18 (c) A person convicted of a violation under sections 325E.27 to 325E.30 may be sentenced
3.19 to pay a fine of not more than \$..... for each separate violation, except that if the prohibited
3.20 call resulted in identity theft or theft by swindle, the penalty is as provided in section 609.52,
3.21 subdivision 3, clause (3).

3.22 (d) A subscriber aggrieved by a violation of sections 325E.27 to 325E.30 has a private
3.23 right of action under this section and may seek appropriate injunctive or other equitable
3.24 relief, additional civil damages, actual losses, and, as determined by the court, reasonable
3.25 attorney fees and court costs. A private right of action brought under this section by a
3.26 subscriber is in the public interest.

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

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

3.30 Sec. 6. Minnesota Statutes 2020, section 609.52, subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 7. Minnesota Statutes 2020, section 609.527, subdivision 3, is amended to read:

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

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

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

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

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

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

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

Sec. 8. **REPEALER.**

Minnesota Statutes 2020, section 325E.31, is repealed.

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

APPENDIX
Repealed Minnesota Statutes: 21-01059

325E.31 REMEDIES.

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