

Wireless Privacy

This Act prohibits wireless telephone companies from publishing the names and telephone numbers of the companies' wireless telephone customers in a publicly accessible wireless telephone database without the express consent of the customers. It prohibits those companies from charging subscribers a fee for not listing the subscribers' numbers in such a database.

Submitted as:

Georgia

House Committee on Public Utilities and Telecommunications substitute to SB 46

Status: Enacted into law in 2005.

Suggested State Legislation

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Section 1. [*Short Title.*] This Act may be cited as “An Act to Protect the Privacy of Wireless Telephone Subscribers.”

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Section 2. [*Definitions.*] As used in this Act:

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(A) “Service supplier” means a person or entity who provides wireless service to a telephone subscriber.

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(B) “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.

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(C) “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, non-local radio access line service, or a private telecommunications service.

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(D) “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.

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Section 3. [*Criteria for Including Names and Numbers of Subscribers in Any Wireless Telephone Database.*]

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(A) 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.

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(B) 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;

35 (b) A separate screen or if it is within another screen shall be in a separate
36 section of the screen that includes the disclosure; or
37 (c) A sound recording of a discrete verbal confirmation;

38 (3) It shall be unambiguous and conspicuously disclose that the subscriber is
39 consenting to have the subscriber's dialing number sold or licensed as part of a publicly
40 accessible wireless telephone database; and
41 (4) The service supplier must disclose in an unambiguous and conspicuous
42 manner to the wireless customer that upon consent:
43 (a) the customer is agreeing to have his or her wireless number accessed
44 by anyone who utilizes the wireless telephone database; and
45 (b) if the customer has a rate plan that charges the customer for usage, that
46 calls received as a result, unsolicited or otherwise, will be applied against the subscriber's
47 planned minutes.

48 (C) A subscriber who provides express consent pursuant to subsection (B) of this section
49 may revoke that consent at any time. A service supplier shall comply with the subscriber's
50 request to opt out within a reasonable period of time, not to exceed [60 days].

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

53 (E) This section does not apply to the provision of telephone numbers to the following
54 parties for the purposes indicated; provided, however, that such parties shall use such telephone
55 numbers solely for the purposes indicated and shall not transfer such telephone numbers to any
56 third party:
57 (1) Any law enforcement agency, fire protection agency, public health agency,
58 public environmental health agency, city or county emergency services planning agency, or
59 private for-profit agency operating under contract with, and at the direction of, one or more of
60 these agencies, for the exclusive purpose of responding to a 911 call or communicating an
61 imminent threat to life or property. This information or these records shall not be open to
62 examination for any purpose not directly connected with the administration of the services
63 specified in this paragraph;
64 (2) A lawful process issued under state or federal law;
65 (3) A service supplier providing service between service areas for the provision to
66 the subscriber of telephone service between service areas, or third parties for the limited purpose
67 of providing collection and billing services for the service supplier;
68 (4) A service supplier to effectuate a subscriber's assigned telephone number
69 from the subscribers existing service supplier to a new service supplier;
70 (5) The [commission]; or
71 (6) A traditional telephone directory publisher, for the purposes of publishing a
72 directory in any format, so long as the information was published before the effective date of this
73 Act.

74 (F) Subsequent to the effective date of this Act, a traditional telephone directory publisher
75 must obtain the wireless subscriber's recorded oral, electronic, or written consent for the wireless
76 subscriber's name and wireless dialing number to be published in a traditional telephone
77 directory.

78 (G) No service supplier shall sell or otherwise provide a list of wireless numbers to any
79 telemarketer except that such numbers may be provided to a telemarketer affiliated with the
80 service supplier for the sole purpose of facilitating communication by or on behalf of the service
81 supplier as permitted under [insert citation].

82 (H) Every deliberate violation of this Act is grounds for a civil suit by the aggrieved
83 subscriber against the service supplier responsible for the violation.

84 (I) No service supplier shall be subject to criminal or civil liability for the release of
85 customer information as authorized by this Act.

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87 Section 4. [*Severability.*] [Insert severability clause.]

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89 Section 5. [*Repealer.*] [Insert repealer clause.]

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91 Section 6. [*Effective Date.*] [Insert effective date.]