

FIRST REGULAR SESSION

# HOUSE BILL NO. 523

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RODEN.

0749H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal section 407.1107, RSMo, and to enact in lieu thereof one new section relating to the no-call list, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 407.1107, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.1107, to read as follows:

407.1107. 1. The attorney general may initiate proceedings relating to a knowing violation or threatened knowing violation of section 407.1098 or 407.1104. Such proceedings may include, without limitation, an injunction, a **minimum** civil penalty of **two thousand five hundred dollars** up to a maximum of five thousand dollars for each knowing violation, and additional relief in any court of competent jurisdiction; **except that no defendant shall have to pay more than one hundred thousand dollars in civil penalties for violations that occurred within a one-month period. Upon a finding of a second violation of section 407.1098 or 407.1104, the minimum civil penalty shall be five thousand dollars up to a maximum of ten thousand dollars; except that no defendant shall have to pay more than two hundred thousand dollars in civil penalties for violations that occurred within a one-month period. Upon a finding of a third violation of section 407.1098 or 407.1104, the minimum civil penalty shall be seven thousand five hundred dollars up to a maximum of fifteen thousand dollars.** The attorney general may issue investigative demands, issue subpoenas, administer oaths, and conduct hearings in the course of investigating a violation of section 407.1098 or 407.1104. **If a final judgment is entered against a party in violation of section 407.1098 or 407.1104, the court, in its discretion, may enter an order of restitution payable to the state. The attorney general shall have the duty to distribute any restitution**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **funds, in an amount not to exceed one hundred dollars per person, to those persons who**  
19 **reported the violation of section 407.1104 or 407.1104 upon which the judgment was**  
20 **entered.**

21 2. In addition to the penalties provided in subsection 1 of this section, any person or  
22 entity that violates section 407.1104 shall be subject to all penalties, remedies and procedures  
23 provided in sections 407.010 to 407.130. The remedies available in this section are cumulative  
24 and in addition to any other remedies available by law.

25 3. Any person who has received more than one telephone solicitation within any  
26 twelve-month period by or on behalf of the same person or entity in violation of section  
27 407.1098 or 407.1104 may either:

28 (1) Bring an action to enjoin such violation;

29 (2) Bring an action to recover for actual monetary loss from such knowing violation or  
30 to receive up to five thousand dollars in damages for each such knowing violation, whichever  
31 is greater; or

32 (3) Bring both such actions.

33 4. It shall be a defense in any action or proceeding brought pursuant to this section that  
34 the defendant has established and implemented, with due care, reasonable practices and  
35 procedures to effectively prevent telephone solicitations in violation of section 407.1098 or  
36 407.1104.

37 5. No action or proceeding may be brought pursuant to this section:

38 (1) More than two years after the person bringing the action knew or should have known  
39 of the occurrence of the alleged violation; or

40 (2) More than two years after the termination of any proceeding or action arising out of  
41 the same violation or violations by the state of Missouri, whichever is later.

42 6. A court of this state may exercise personal jurisdiction over any nonresident or his or  
43 her executor or administrator as to an action or proceeding authorized by this section in the  
44 manner otherwise provided by law.

45 7. The remedies, duties, prohibitions and penalties of sections 407.1095 to 407.1107 are  
46 not exclusive and are in addition to all other causes of action, remedies and penalties provided  
47 by law.

48 8. No provider of telephone caller identification service shall be held liable for violations  
49 of section 407.1098 or 407.1104 committed by other persons or entities.

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