

Introduced by Senator PavleyFebruary 26, 2009

An act to amend Section 2891.1 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 437, as introduced, Pavley. Unlisted telephone numbers.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law prohibits a telephone corporation selling or licensing lists of residential subscribers, from including the telephone number of any subscriber assigned an unpublished or unlisted access number, as defined, without his or her written waiver of this protection. Existing law prohibits a provider of mobile telephony services, as defined, or any affiliate or agent of the provider, providing the name and dialing number of a subscriber for inclusion in a directory or directory database, from including the dialing number of any subscriber without first obtaining the express consent of that subscriber. Existing law establishes certain requirements for the provider's form for obtaining the subscriber's express consent. Existing law prohibits a subscriber from being charged for making the choice to not have his or her name and mobile telephony dialing number listed in a publicly available directory assistance database.

This bill would, instead, prohibit a subscriber from being charged for making the choice to not have his or her name or telephone number listed in a directory or publicly available directory assistance database.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to prohibit
2 telephone companies, including mobile telephony service providers,
3 from charging customers to have an unlisted or unpublished
4 telephone number.

5 SEC. 2. Section 2891.1 of the Public Utilities Code is amended
6 to read:

7 2891.1. (a) Notwithstanding Section 2891, a telephone
8 corporation selling or licensing lists of residential subscribers shall
9 not include the telephone number of any subscriber assigned an
10 unlisted or unpublished access number. A subscriber may waive
11 all or part of the protection provided by this subdivision through
12 written notice to the telephone corporation.

13 (b) Notwithstanding Section 2891, a provider of mobile
14 telephony services, or any direct or indirect affiliate or agent of a
15 provider, providing the name and dialing number of a subscriber
16 for inclusion in any directory of any form, or selling the contents
17 of any directory database, or any portion or segment thereof, shall
18 not include the dialing number of any subscriber without first
19 obtaining the express consent of that subscriber. The express
20 consent shall meet all of the following requirements:

21 (1) It shall be one of the following:

22 (A) A separate document that is signed and dated by the
23 subscriber, and that is not attached to any other document.

24 (B) An affirmative response made on a separate field on an
25 Internet Web site where there is no default. The provider of mobile
26 telephony services shall send a confirmation notice to the
27 subscriber's electronic mail address, or to a subscriber's postal
28 mail address if the subscriber does not have an electronic mail
29 account.

30 (2) It shall be unambiguous, legible, and conspicuously disclose
31 that, by opting in, the subscriber is consenting to have the
32 subscriber's dialing number sold or licensed as part of a list of
33 subscribers and the subscriber's dialing number may be included
34 in a publicly available directory.

35 (3) If, under the subscriber's calling plan, the subscriber may
36 be billed for receiving unsolicited calls or text messaging from a
37 telemarketer, the provider's form shall include an unambiguous
38 and legible disclosure statement that, by consenting to have the

1 subscriber's dialing number sold or licensed as part of a list of
2 subscribers or included in a publicly available directory, the
3 subscriber may incur additional charges for receiving unsolicited
4 calls or text messages.

5 (c) Nothing in this section prohibits a subscriber of mobile
6 telephony services from voluntarily entering into an agreement
7 for the placement of his or her name and mobile telephony dialing
8 number in any advertising program if the agreement satisfies the
9 express consent requirements of this section.

10 (d) A subscriber who provides express prior consent pursuant
11 to subdivision (b) may revoke that consent at any time. A provider
12 of mobile telephony services shall comply with the subscriber's
13 request to opt out within a reasonable period of time, not to exceed
14 60 days.

15 (e) A subscriber shall not be charged for making the choice to
16 not have ~~their name and mobile telephony dialing number~~ be *his*
17 *or her name or telephone number, or both*, listed in a *directory*
18 *or* publicly available directory assistance database.

19 (f) This section does not apply to the provision of telephone
20 numbers to the following parties for the purposes indicated:

21 (1) To a collection agency, to the extent disclosures made by
22 the agency are supervised by the commission, exclusively for the
23 collection of unpaid debts.

24 (2) (A) To any law enforcement agency, fire protection agency,
25 public health agency, public environmental health agency, city or
26 county emergency services planning agency, or private for-profit
27 agency operating under contract with, and at the direction of, one
28 or more of these agencies, for the exclusive purpose of responding
29 to a 911 call or communicating an imminent threat to life or
30 property.

31 (B) Any information or records provided to a private for-profit
32 agency pursuant to this subdivision shall be held in confidence by
33 that agency and by any individual employed by or associated with
34 that agency. This information or these records shall not be open
35 to examination for any purpose not directly connected with the
36 administration of the services specified in subdivision (e) of Section
37 2872 or this paragraph.

38 (3) To a lawful process issued under state or federal law.

39 (4) To a telephone corporation providing service between service
40 areas for the provision to the subscriber of telephone service

1 between service areas, or to third parties for the limited purpose
2 of providing billing services.

3 (5) To a telephone corporation to effectuate a customer’s request
4 to transfer the customer’s assigned telephone number from the
5 customer’s existing provider of telecommunications services to a
6 new provider of telecommunications services.

7 (6) To the commission pursuant to its jurisdiction and control
8 over telephone and telegraph corporations.

9 (g) Every deliberate violation of this section is grounds for a
10 civil suit by the aggrieved subscriber against the organization or
11 corporation and its employees responsible for the violation.

12 (h) For purposes of this section, “unpublished or unlisted access
13 number” means a telephone, telex, teletex, facsimile, computer
14 modem, or any other code number that is assigned to a subscriber
15 by a telephone or telegraph corporation for the receipt of
16 communications initiated by other telephone or telegraph customers
17 and that the subscriber has requested that the telephone or telegraph
18 corporation keep in confidence.

19 (i) No telephone corporation, nor any official or employee
20 thereof, shall be subject to criminal or civil liability for the release
21 of customer information as authorized by this section.