

# Oregon Department of Justice

Office of the Attorney General

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## HB 2759: A CALL FOR ACCOUNTABILITY

### Background:

Unwanted robocalls are a widespread problem. According to reports, U.S. consumers received over 50.3 billion robocalls in 2022.<sup>1</sup> One study found that over 68.4 million Americans lost an estimated \$39.5 billion to phone scams in 2022.<sup>2</sup> According to the FTC Do-Not-Call data book for 2022, Oregonians reported over 40,000 unwanted calls, and over 26,000 of them stemmed from robocalls. Telecommunications complaints ranked second on DOJ's Top Ten Consumer Complaints List of 2022.<sup>3</sup>

Advancements in technology make these calls cheap to place and easy to disguise. Moreover, though the calls may come to Oregon telephone numbers, they originate from all over the world, making it difficult for regulators to hold bad actors accountable. But these calls do not get to Oregon on their own. First, they must enter the United States through a gateway provider and then travel through any number of domestic providers before finally being delivered to your phone. The same technological advances that make it easy to disseminate billions of calls allows providers to tell through various analytics, in near real time, whether calls they allow to pass through their systems carry the hallmarks of scam calls.

Gateway providers have the ability and opportunity to stop a call from reaching you. Often these companies are actively choosing to ignore suspicious activity because carrying more calls equals more profit for them.

On the federal level, Congress enacted the Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act in 2019. Since then, the FCC has promulgated numerous rules designed to fight back against illegal robocalls, including the requirement that networks implement Stir/Shaken technology to help validate and authenticate calls and requiring gateway providers to verify calls before

<sup>1</sup><https://www.prnewswire.com/news-releases/robocalls-top-50-3-billion-in-2022--matching-2021-call-volumes-despite-enforcement-efforts-301714297.html#:~:text=IRVINE%2C%20Calif.%2C%20Jan.,government%20regulators%20and%20state%20officials.>

<sup>2</sup> <https://www.truecaller.com/blog/insights/truecaller-insights-2022-us-spam-scam-report>

<sup>3</sup> <https://www.doj.state.or.us/media-home/news-media-releases/dojs-top-ten-consumer-complaints-list-of-2022/>

allowing them into the country. This technology helps companies identify bad traffic, but it is up to them to stop it.

Other states, including Washington, Oklahoma, and Georgia are also taking action to bolster their own state laws.<sup>4</sup>

### **Concept:**

HB 2759 will amend Oregon's anti-robocall statutes, ORS 646.569 and ORS 646A.374 so that telemarketing companies who carry traffic they know (or consciously avoid knowing) is illegal are liable for those calls to the same extent as if they originated the call themselves. Currently it is illegal under Oregon law to call someone on the do-not-call list or to make scam robocalls. But because so many of these calls come from overseas it can be near impossible to hold the call originators accountable under Oregon's current statute. The changes in this bill would more closely align Oregon's law with federal law found in the Telephone Sales Rule, 16 CF 310.3(4) and will encourage telemarketing providers to police the traffic they allow through their systems or face their own civil exposure.

The bill is carefully crafted to encourage businesses to prevent illegal robocalls from reaching Oregonians when they have the ability to stop them, using existing infrastructure. The rule as proposed mirrors federal law and the requirement that someone must "know or consciously avoid knowing" that the traffic they carry is already illegal precludes liability for inadvertent mistake. Most companies understand and agree that stopping illegal and unwanted robocalls is a necessity. In fact, some of the largest voice service providers have already been working with state Attorneys General to stop the scourge of scam calls flooding the United States.<sup>5</sup>

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<sup>4</sup> <https://www.atg.wa.gov/news/news-releases/ag-ferguson-rep-leavitt-propose-legislation-holding-telecommunications-providers>. See also <https://www.manatt.com/insights/newsletters/tcpa-connect/state-telemarketing-laws-popping-up-around-the-cou#collapseNewsletter>

<sup>5</sup> <https://www.ustelecom.org/wp-content/uploads/2019/08/State-AGs-Providers-AntiRobocall-Principles-With-Signatories.pdf>