

**CHAPTER 450**

**H.B. No. 659**

An Act relating to the use of automatic dialing announcing devices; providing a penalty.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 87B to read as follows:

*Sec. 87B. (a) In this section, "automatic dial announcing device" means automatic equipment used for telephone solicitation or collection that:*

*(1) is capable of storing telephone numbers to be called, or has a random or sequential number generator capable of producing numbers to be called; and*

*(2) is capable, alone or in conjunction with other equipment, to convey a prerecorded or synthesized voice message to the number called.*

*(b) A person may not use an automatic dial announcing device unless:*

*(1) the person has obtained a permit from the commission and given written notice specifying the type of device to each telecommunications utility over whose system the device is to be used;*

(2) the device is not used for random number dialing or to dial numbers determined by successively increasing or decreasing integers;

(3) the message conveyed by the device, or a message delivered by a human, states the nature of the call and the identity of the person, company, or organization making the call;

(4) the device disconnects from the called person's line not later than 10 seconds after the called person hangs up; and

(5) for calls terminating in the State of Texas, the device is not used to make a call (a) on a Sunday before 1:30 p.m. or after 9 p.m., or before 9 a.m. or after 9 p.m. on a weekday or a Saturday, when the device is used for solicitation; or (b) at any hour that collection calls would be prohibited under the federal Fair Debt Collection Practices Act, 15 U.S.C. Section 801 et seq., when the device is used for collection purposes.

(c) A telecommunications utility may disconnect or refuse to connect service to a person using or intending to use an automatic dial announcing device if the utility determines that the device is not capable of disconnecting from a called party's line as required by this section or that the device would cause or is causing network harm. The telecommunications utility shall disconnect service to the person on a determination by the commission or a court that the person is violating this section, and may reconnect service to the person only on a determination by the commission that the person will comply with this section. The utility shall give notice to the person using the device of its intent to disconnect service not later than the third day before the date of the disconnection, except that if the device is causing network congestion or blockage, the notice may be given on the day before the date of disconnection.

(d) This section does not apply to the use of an automatic dial announcing device to call a person who has given to the person making the call written permission to be called by an automatic dial announcing device, except that a telecommunications utility may disconnect service to a person using the device if the device is causing network harm.

(e) An application for a permit under this section to use one or more automatic dial announcing devices must be accompanied by a fee in a reasonable amount calculated to cover the enforcement cost to the commission not to exceed \$500, as determined by the commission. The proceeds of the fees shall be deposited in the general revenue fund.

(f) A person who operates an automatic dial announcing device in violation of this section commits an offense. An offense under this section is a Class C misdemeanor.

**SECTION 2.** Section 74(a), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided by Section 87B of this Act, any ~~Any~~ person or persons who willfully and knowingly violate the provisions of this Act shall be guilty of a third degree felony.

**SECTION 3.** This Act takes effect September 1, 1985.

**SECTION 4.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 13, 1985, by a non-record vote; passed by the Senate on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 11, 1985

Effective: September 1, 1985