March 22, 2013

ENGROSSED
HOUSE BILL No. 1376

DIGEST OF HB 1376 (Updated March 19, 2013 1:37 pm - DI 106)

Citations Affected: IC 8-1; IC 24-4.7; IC 24-5; IC 25-1; IC 35-51.

Synopsis: Various privacy issues. Makes the following changes to the statute concerning telephone caller identification services: (1) Repeals the definition of "telecommunications service provider". (2) Adds the definition of "provider". In the statutes concerning: (1) telephone caller identification services; and (2) telephone solicitations; replaces the term "caller ID" with the term "caller identification", as used in the federal Caller ID Act of 2009. Provides that a person shall not knowingly and with the intent to defraud or cause harm to another person, or to wrongfully obtain anything of value, cause any caller identification service to transmit misleading or inaccurate caller identification information to a subscriber in Indiana. Exempts certain activities from the prohibition. Provides that a violation of the prohibition is: (1) a Class B misdemeanor; and (2) a deceptive act actionable by the attorney general. Specifies that the attorney general

(Continued next page)

Effective: Upon passage; July 1, 2013.

Koch

(SENATE SPONSORS — STEELE, WATERMAN, TOMES, RANDOLPH)

January 22, 2013, read first time and referred to Committee on Judiciary.
February 5, 2013, amended, reported — Do Pass.
February 7, 2013, read second time, ordered engrossed. Engrossed.
February 11, 2013, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Corrections and Criminal Law.
March 21, 2013, amended, reported favorably — Do Pass.

C o p y

Digest Continued

may recover a civil penalty of not more than $10,000 for a knowing violation. Provides that a subsequent violation is a Class A misdemeanor. Provides a cause of action for: (1) damages; and (2) injunctive relief; for any person aggrieved by a violation. Prohibits the professional licensing agency (PLA) or a board administered by the PLA from disclosing to the public personal information of an individual who: (1) applies for or holds a license, certificate, registration, or permit issued by a board; or (2) is a member of a board administered by the PLA; subject to certain exceptions specified by law. Makes conforming amendments.

C o p y

March 22, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

C o p y

ENGROSSED
HOUSE BILL No. 1376

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-2.9-0.5 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 0.5. As used in this chapter, "telecommunications service provider" means a person that offers telecommunications service (as defined in 47 U.S.C. 153(46)).~~

SECTION 2. IC 8-1-2.9-1, AS AMENDED BY P.L.27-2006, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. As used in this chapter, "caller ~~ID~~ **identification** service" ~~means an optional service provided by a telecommunications service provider that permits a telecommunications service customer equipped with a display device to view the telephone number from which a call is being placed before answering the call.~~ **has the meaning set forth in IC 24-5-14.5-3.**

SECTION 3. IC 8-1-2.9-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 1.5. As used in this chapter, "provider" has the**

meaning set forth in IC 24-5-14.5-6.

SECTION 4. IC 8-1-2.9-2, AS AMENDED BY P.L.27-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) The commission shall approve any petition by a ~~telecommunications service~~ provider for commission approval of caller ~~ID~~ **identification** service. The commission may not require that caller ~~ID~~ **identification** service be provided with blocking, except that the commission may approve either per-call or per-line blocking for law enforcement and crisis intervention agencies that are certified by the commission.

(b) Rates and charges for caller ~~ID services~~ **identification service** are not subject to commission approval under this section.

SECTION 5. IC 24-4.7-3-6, AS AMENDED BY P.L.85-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) The consumer protection division telephone solicitation fund is established for the purpose of the administration of:

(1) this article; ~~and~~

(2) IC 24-5-0.5-3(a)(19); **and**

(3) IC 24-5-14.5.

The fund shall be used exclusively for this purpose.

(b) The division shall administer the fund.

(c) The division shall deposit all revenue received:

(1) under this article; ~~and~~

(2) from civil penalties deposited under IC 24-5-0.5-4(h); **and**

(3) from civil penalties deposited under IC 24-5-14.5-12.

in the fund.

(d) Money in the fund is continuously appropriated to the division for the administration of:

(1) this article; ~~and~~

(2) IC 24-5-0.5-3(a)(19); **and**

(3) IC 24-5-14.5.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the amount of money in the fund at the end of a particular state fiscal year exceeds two hundred thousand dollars ($200,000), the treasurer of state shall transfer the excess from the fund to the state general fund.

SECTION 6. IC 24-5-0.5-4, AS AMENDED BY P.L.226-2011, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) A person relying upon an uncured or incurable deceptive act may bring an action for the damages actually suffered as a consumer as a result of the deceptive act or five hundred dollars ($500), whichever is greater. The court may increase damages

C o p y

for a willful deceptive act in an amount that does not exceed the greater of:

(1) three (3) times the actual damages of the consumer suffering the loss; or

(2) one thousand dollars ($1,000).

Except as provided in subsection (j), the court may award reasonable attorney fees to the party that prevails in an action under this subsection. This subsection does not apply to a consumer transaction in real property, including a claim or action involving a construction defect (as defined in IC 32-27-3-1(5)) brought against a construction professional (as defined in IC 32-27-3-1(4)), except for purchases of time shares and camping club memberships. This subsection does not apply with respect to a deceptive act described in section 3(a)(20) of this chapter. This subsection also does not apply to a violation of IC 24-4.7, IC 24-5-12, ~~or~~ IC 24-5-14, **or IC 24-5-14.5.** Actual damages awarded to a person under this section have priority over any civil penalty imposed under this chapter.

(b) Any person who is entitled to bring an action under subsection (a) on the person's own behalf against a supplier for damages for a deceptive act may bring a class action against such supplier on behalf of any class of persons of which that person is a member and which has been damaged by such deceptive act, subject to and under the Indiana Rules of Trial Procedure governing class actions, except as herein expressly provided. Except as provided in subsection (j), the court may award reasonable attorney fees to the party that prevails in a class action under this subsection, provided that such fee shall be determined by the amount of time reasonably expended by the attorney and not by the amount of the judgment, although the contingency of the fee may be considered. Except in the case of an extension of time granted by the attorney general under IC 24-10-2-2(b) in an action subject to IC 24-10, any money or other property recovered in a class action under this subsection which cannot, with due diligence, be restored to consumers within one (1) year after the judgment becomes final shall be returned to the party depositing the same. This subsection does not apply to a consumer transaction in real property, except for purchases of time shares and camping club memberships. This subsection does not apply with respect to a deceptive act described in section 3(a)(20) of this chapter. Actual damages awarded to a class have priority over any civil penalty imposed under this chapter.

(c) The attorney general may bring an action to enjoin a deceptive act, including a deceptive act described in section 3(a)(20) of this chapter, notwithstanding subsections (a) and (b). However, the attorney

C o p y

general may seek to enjoin patterns of incurable deceptive acts with respect to consumer transactions in real property. In addition, the court may:

(1) issue an injunction;

(2) order the supplier to make payment of the money unlawfully received from the aggrieved consumers to be held in escrow for distribution to aggrieved consumers;

(3) order the supplier to pay to the state the reasonable costs of the attorney general's investigation and prosecution related to the action; and

(4) provide for the appointment of a receiver.

(d) In an action under subsection (a), (b), or (c), the court may void or limit the application of contracts or clauses resulting from deceptive acts and order restitution to be paid to aggrieved consumers.

(e) In any action under subsection (a) or (b), upon the filing of the complaint or on the appearance of any defendant, claimant, or any other party, or at any later time, the trial court, the supreme court, or the court of appeals may require the plaintiff, defendant, claimant, or any other party or parties to give security, or additional security, in such sum as the court shall direct to pay all costs, expenses, and disbursements that shall be awarded against that party or which that party may be directed to pay by any interlocutory order by the final judgment or on appeal.

(f) Any person who violates the terms of an injunction issued under subsection (c) shall forfeit and pay to the state a civil penalty of not more than fifteen thousand dollars ($15,000) per violation. For the purposes of this section, the court issuing an injunction shall retain jurisdiction, the cause shall be continued, and the attorney general acting in the name of the state may petition for recovery of civil penalties. Whenever the court determines that an injunction issued under subsection (c) has been violated, the court shall award reasonable costs to the state.

(g) If a court finds any person has knowingly violated section 3 or 10 of this chapter, other than section 3(a)(19) or 3(a)(20) of this chapter, the attorney general, in an action pursuant to subsection (c), may recover from the person on behalf of the state a civil penalty of a fine not exceeding five thousand dollars ($5,000) per violation.

(h) If a court finds that a person has violated section 3(a)(19) of this chapter, the attorney general, in an action under subsection (c), may recover from the person on behalf of the state a civil penalty as follows:

(1) For a knowing or intentional violation, one thousand five hundred dollars ($1,500).

C o p y

(2) For a violation other than a knowing or intentional violation, five hundred dollars ($500).

A civil penalty recovered under this subsection shall be deposited in the consumer protection division telephone solicitation fund established by IC 24-4.7-3-6 to be used for the administration and enforcement of section 3(a)(19) of this chapter.

(i) An elderly person relying upon an uncured or incurable deceptive act, including an act related to hypnotism, may bring an action to recover treble damages, if appropriate.

(j) An offer to cure is:

(1) not admissible as evidence in a proceeding initiated under this section unless the offer to cure is delivered by a supplier to the consumer or a representative of the consumer before the supplier files the supplier's initial response to a complaint; and

(2) only admissible as evidence in a proceeding initiated under this section to prove that a supplier is not liable for attorney's fees under subsection (k).

If the offer to cure is timely delivered by the supplier, the supplier may submit the offer to cure as evidence to prove in the proceeding in accordance with the Indiana Rules of Trial Procedure that the supplier made an offer to cure.

(k) A supplier may not be held liable for the attorney's fees and court costs of the consumer that are incurred following the timely delivery of an offer to cure as described in subsection (j) unless the actual damages awarded, not including attorney's fees and costs, exceed the value of the offer to cure.

(l) If a court finds that a person has knowingly violated section 3(a)(20) of this chapter, the attorney general, in an action under subsection (c), may recover from the person on behalf of the state a civil penalty not exceeding one thousand dollars ($1,000) per consumer. In determining the amount of the civil penalty in any action by the attorney general under this subsection, the court shall consider, among other relevant factors, the frequency and persistence of noncompliance by the debt collector, the nature of the noncompliance, and the extent to which the noncompliance was intentional. A person may not be held liable in any action by the attorney general for a violation of section 3(a)(20) of this chapter if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid the error. A person may not be held liable in any action for a violation of this chapter for contacting a person other than the debtor, if the contact is made in compliance with

C o p y

the Fair Debt Collection Practices Act.

SECTION 7. IC 24-5-12-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 25. (a) If a person makes a solicitation to a prospect that is outside of the course of dealing (as described in IC 26-1-1-205), whether personally, through salespersons, or through the use of an automated dialing and answering device, the person may not knowingly or intentionally block or attempt to block the display of the person's:

(1) telephone number; or

(2) identity;

by a caller ~~ID~~ **identification** service (as defined ~~by IC 8-1-2.9-1)~~ **in IC 24-5-14.5-3)** when attempting to initiate a telephone conversation for the purpose of making a solicitation to a prospect.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous unrelated conviction under this subsection.

SECTION 8. IC 24-5-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 14.5. False or Misleading Caller Identification

Sec. 1. This chapter applies to the transmission of information through a caller identification service with respect to calls made after June 30, 2013, to a subscriber.

Sec. 2. As used in this chapter, "caller identification information" means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or interconnected VOIP service.

Sec. 3. (a) As used in this chapter, "caller identification service" means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or interconnected VOIP service.

(b) The term includes automatic number identification (as defined in 47 CFR 20.3) services.

Sec. 4. As used in this chapter, "interconnected VOIP service" has the meaning set forth in 47 CFR 9.3.

Sec. 5. As used in this chapter, "place of primary use" means the street address representative of where a subscriber's use of a telecommunications service or interconnected VOIP service primarily occurs, which must be:

C o p y

(1) the residential street address or the primary business street address of the subscriber or, in the case of a subscriber of interconnected VOIP service, the subscriber's registered location (as defined in 47 CFR 9.3);

(2) within the licensed service area of the provider; and

(3) in the case of:

(A) mobile telecommunications service, determined in the manner provided in IC 6-8.1-15; and

(B) nonmobile telecommunications communications service, determined in the manner provided in IC 6-2.5-12.

Sec. 6. As used in this chapter, "provider" means a person that offers telecommunications service or interconnected VOIP service.

Sec. 7. As used in this chapter, "subscriber" means a person:

(1) that subscribes to a caller identification service in connection with:

(A) a telecommunications service; or

(B) an interconnected VOIP service;

to which the person subscribes; and

(2) whose place of primary use for the service described in subdivision (1)(A) or (1)(B) is in Indiana.

Sec. 8. As used in this chapter, "telecommunications service" has the meaning set forth in 47 U.S.C. 153.

Sec. 9. Except as provided in section 10 of this chapter, a person shall not, in connection with any telecommunications service or interconnected VOIP service, knowingly and with the intent to defraud or cause harm to another person or to wrongfully obtain anything of value, cause any caller identification service to transmit misleading or inaccurate caller identification information to a subscriber.

Sec. 10. This chapter does not prohibit or restrict any of the following:

(1) Subject to IC 24-5-12-25, blocking the capability of a caller identification service to transmit caller identification information.

(2) Any authorized activity of a law enforcement agency.

(3) Any lawfully authorized investigative, protective, or intelligence activity of:

(A) the United States or an intelligence agency of the United States;

(B) the state or a political subdivision of the state; or

(C) any other state or a political subdivision of that state.

(4) A court order that specifically authorizes the use of caller

C o p y

identification manipulation.

(5) The right of the attorney general to bring a civil action under 47 U.S.C. 227(e)(6) to enforce the federal Truth in Caller ID Act of 2009 (47 U.S.C. 227).

Sec. 11. A person who knowingly violates this chapter commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous unrelated conviction under this chapter.

Sec. 12. (a) Except as provided in subsection (b), a person who violates this chapter commits a deceptive act that is:

(1) actionable by the attorney general under IC 24-5-0.5-4(c); and

(2) subject to the remedies and penalties set forth in IC 24-5-0.5.

An action by the attorney general for a violation of this chapter may be brought in the circuit or superior court of Marion County.

(b) If the attorney general brings an action under this section and proves by a preponderance of the evidence that a person has knowingly or intentionally violated section 9 of this chapter, the attorney general may recover from the person on behalf of the state a civil penalty of not more than ten thousand dollars ($10,000) per violation. A civil penalty recovered under this subsection shall be deposited in the consumer protection division telephone solicitation fund established by IC 24-4.7-3-6 to be used for the administration and enforcement of this chapter.

Sec. 13. (a) Except as provided in section 14 of this chapter, any person who is aggrieved by a violation of this chapter may bring an action for the recovery of the person's actual damages, including court costs and attorney's fees, against any person:

(1) responsible for; or

(2) who knowingly participated in;

the violation. An action under this subsection may be brought in the circuit or superior court of the aggrieved person's county of residence or principal place of business in Indiana.

(b) Upon petition by any person that another person has violated this chapter, the circuit or superior court of the petitioner's county of residence or principal place of business in Indiana may enjoin the respondent from further violations. The injunctive relief available under this subsection is in addition to any damages to which a person may be entitled under subsection (a).

Sec. 14. A person does not have a cause of action against a

C o p y

provider for a violation of this chapter unless the violation resulted from the provider's gross negligence or intentional wrongdoing.

SECTION 9. IC 25-1-5-11, AS ADDED BY P.L.157-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a) As used in this section, "applicant" means an individual who applies for a license, certificate, registration, or permit issued by a board under this title.**

(b) As used in this section, "licensee" means an individual who is or has been licensed, certified, or registered by a board under this title.

(c) As used in this section, "personal information" means the following:

(1) Home telephone number.

(2) Electronic mail address.

(d) Except as otherwise provided in this section, the personal information of an individual who is:

(1) a licensee;

(2) an applicant; or

(3) a board member;

is confidential for purposes of IC 5-14-3-4 and may not be disclosed to the public by the agency or a board.

~~(a)~~ **(e)** An ~~individual who applies for a license issued by a board under this chapter~~ **applicant** or ~~who holds a license issued by a board under this chapter~~ **a licensee** shall provide the ~~individual's~~ **applicant's or licensee's** Social Security number to the agency.

~~(b)~~ **(f)** The agency and the boards shall collect and release the applicant's or licensee's Social Security number as provided in state or federal law.

~~(c)~~ **(g)** Notwithstanding IC 4-1-10-3, the agency and the boards may allow access to the Social Security number of each ~~person who is licensed under this chapter or has applied for a license under this chapter~~ **applicant or licensee** to:

(1) a testing service that provides the examination for licensure, **certification, or registration** to the agency or the boards; or

(2) an individual state regulatory board or an organization composed of state regulatory boards for the applicant's or licensee's profession for the purpose of coordinating:

(A) licensure, **certification, or registration;** and

(B) disciplinary activities among the individual states.

(h) Notwithstanding subsection (d), the agency or a board may disclose personal information of an individual described in subsection (d) if the person requesting the information provides

Copy

proof of identity and represents that the use of the personal information will be strictly limited to at least one (1) of the following:

(1) For use by a government agency, including a court or law enforcement agency, in carrying out its functions, or a person acting on behalf of a government agency in carrying out its functions.

(2) For use in connection with a civil, a criminal, an administrative, or an arbitration proceeding in a court or government agency or before a self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or under an order of a court.

(3) For use in research activities, and for use in producing statistical reports, as long as the personal information is not published, re-disclosed, or used to contact the individuals who are the subject of the personal information.

(4) For use by any person, when the person demonstrates, in a form and manner prescribed by the agency, that written consent has been obtained from the individual who is the subject of the information.

(5) For any other use specifically authorized by law that is related to the agency or a board or to public safety.

SECTION 10. IC 35-51-24-1, AS ADDED BY P.L.70-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. The following statutes define crimes in IC 24:

IC 24-1-1-3 (Concerning combinations in restraint of trade).
IC 24-1-2-1 (Concerning combinations in restraint of trade).
IC 24-1-2-2 (Concerning combinations in restraint of trade).
IC 24-1-2-3 (Concerning combinations in restraint of trade).
IC 24-1-3-1 (Concerning combinations in restraint of trade).
IC 24-1-4-3 (Concerning combinations in restraint of trade).
IC 24-2-2-3 (Concerning trademarks, trade names, and trade secrets).
IC 24-3-4-15 (Concerning regulated prices).
IC 24-3-4-16 (Concerning regulated prices).
IC 24-3-4-17 (Concerning regulated prices).
IC 24-3-5.4-24 (Concerning regulated prices).
IC 24-4-1-1 (Concerning regulated businesses).
IC 24-4-3-5 (Concerning regulated businesses).
IC 24-4-4-5 (Concerning regulated businesses).
IC 24-4-6-1 (Concerning regulated businesses).

C o p y

IC 24-4-11-11 (Concerning regulated businesses).
IC 24-4-12-11 (Concerning regulated businesses).
IC 24-4-13-6 (Concerning regulated businesses).
IC 24-16.4-4 (Concerning regulated businesses).
IC 24-4.5-5-301 (Concerning Uniform Consumer Credit Code).
IC 24-4.5-5-302 (Concerning Uniform Consumer Credit Code).
IC 24-4.6-3-4 (Concerning unauthorized solicitation of money using the name of a public safety agency).
IC 24-5-8-19 (Concerning consumer sales).
IC 24-5-12-22 (Concerning consumer sales).
IC 24-5-12-25 (Concerning consumer sales).
IC 24-5-14-10 (Concerning consumer sales).
IC 24-5-14.5-11 (Concerning false or misleading caller identification).
IC 24-5-16-16 (Concerning consumer sales).
IC 24-5-23.5-9 (Concerning consumer sales).
IC 24-5.5-6-1 (Concerning mortgage rescue protection fraud).
IC 24-6-1-1 (Concerning standard weights and measures).
IC 24-6-3-15 (Concerning standard weights and measures).
IC 24-6-6-11 (Concerning standard weights and measures).
IC 24-7-9-1 (Concerning retail purchase agreements).
IC 24-7-9-2 (Concerning retail purchase agreements).
IC 24-7-9-3 (Concerning retail purchase agreements).
IC 24-8-6-1 (Concerning promotional gifts and contests).
IC 24-9-8-1 (Concerning home loan practices).

SECTION 11. **An emergency is declared for this act.**

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1376, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 2, delete "defraud, cause harm, or wrongfully" and insert "**defraud or cause harm to another person or to wrongfully**".

Page 9, delete lines 31 through 42.

Delete pages 10 through 14.

Page 15, delete lines 1 through 27.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1376 as introduced.)

STEUERWALD, Chair

Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1376, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 5. IC 24-4.7-3-6, AS AMENDED BY P.L.85-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) The consumer protection division telephone solicitation fund is established for the purpose of the administration of:

(1) this article; ~~and~~

(2) IC 24-5-0.5-3(a)(19); **and**

(3) IC 24-5-14.5.

The fund shall be used exclusively for this purpose.

(b) The division shall administer the fund.

(c) The division shall deposit all revenue received:

(1) under this article; ~~and~~

(2) from civil penalties deposited under IC 24-5-0.5-4(h); **and**

(3) from civil penalties deposited under IC 24-5-14.5-12.

in the fund.

C o p y

(d) Money in the fund is continuously appropriated to the division for the administration of:

(1) this article; ~~and~~

(2) IC 24-5-0.5-3(a)(19); **and**

(3) IC 24-5-14.5.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the amount of money in the fund at the end of a particular state fiscal year exceeds two hundred thousand dollars ($200,000), the treasurer of state shall transfer the excess from the fund to the state general fund.".

Page 7, line 27, delete "A" and insert "**(a) Except as provided in subsection (b), a**".

Page 7, line 31, after "the" insert "**remedies and**".

Page 7, between lines 33 and 34, begin a new paragraph and insert:

"**(b) If the attorney general brings an action under this section and proves by a preponderance of the evidence that a person has knowingly or intentionally violated section 9 of this chapter, the attorney general may recover from the person on behalf of the state a civil penalty of not more than ten thousand dollars ($10,000) per violation. A civil penalty recovered under this subsection shall be deposited in the consumer protection division telephone solicitation fund established by IC 24-4.7-3-6 to be used for the administration and enforcement of this chapter.**".

Page 8, line 17, after "is" insert "**or has been**".

Page 8, delete line 20.

Page 8, line 21, delete "(2)" and insert "**(1)**".

Page 8, line 22, delete "(3)" and insert "**(2)**".

Page 8, line 37, delete "or subsection (d)," and insert ",".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1376 as printed February 5, 2013.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 8, Nays 0.

C o p y