

**As Reported by the Committee of Conference
Corrected Version**

**129th General Assembly
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Am. Sub. S. B. No. 223

Senator Bacon

**Cosponsors: Senators Wagoner, Faber, Turner, Kearney, Obhof, Balderson,
Beagle, Burke, Cafaro, Coley, Daniels, Eklund, Hite, Hughes, Jones, Lehner,
Manning, Niehaus, Oelslager, Sawyer, Schaffer, Schiavoni, Seitz, Smith,
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Combs, DeVitis, Dovilla, Grossman, Hackett, Hall, Hill, Johnson, McGregor,
Newbold, O'Brien, Patmon, Roegner, Thompson Speaker Batchelder**

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A B I L L

To amend sections 2913.05 and 4719.17 and to enact	1
section 109.88 of the Revised Code to allow the	2
Attorney General to investigate the offenses of	3
unauthorized use of property and	4
telecommunications fraud and to modify the	5
penalties for telecommunications fraud.	6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2913.05 and 4719.17 be amended and	7
section 109.88 of the Revised Code be enacted to read as follows:	8

<u>Sec. 109.88. (A) If the attorney general has reasonable cause</u>	9
<u>to believe that a person or enterprise has engaged in, is engaging</u>	10
<u>in, or is preparing to engage in a violation of any provision of</u>	11

section 2913.04 or 2913.05 of the Revised Code, the attorney 12
general may investigate the alleged violation. 13

(B) For purposes of an investigation under division (A) of 14
this section, the attorney general may issue subpoenas and 15
subpoenas duces tecum. The attorney general may compel the 16
attendance of witnesses and the production of records and papers 17
of all kinds and descriptions that are relevant to the 18
investigation, including, but not limited to, any books, accounts, 19
documents, and memoranda pertaining to the subject of the 20
investigation. Upon the failure of any person to comply with any 21
subpoena or subpoena duces tecum issued by the attorney general 22
under this section, the attorney general may apply to the court of 23
common pleas in Franklin county or in any county in which an 24
element of the crime occurred for a contempt order as in the case 25
of disobedience of the requirements of a subpoena issued from the 26
court of common pleas or a refusal to testify on a subpoena. A 27
subpoena or subpoena duces tecum issued by the attorney general 28
under this section to a provider of electronic communication 29
services or remote computing services shall be subject to the 30
limitations set forth in the "Electronic Communications Privacy 31
Act of 1986," 18 U.S.C. 2703. 32

(C) Any information gathered by the attorney general during 33
the course of the investigation that is in the possession of the 34
attorney general, a prosecuting attorney, a law enforcement 35
agency, or a special prosecutor is a confidential law enforcement 36
investigatory record for purposes of section 149.43 of the Revised 37
Code. No provision contained in this section affects or limits any 38
right of discovery granted to any person under the Revised Code, 39
the Rules of Criminal Procedure, or the Rules of Juvenile 40
Procedure. 41

Sec. 2913.05. (A) No person, having devised a scheme to 42

defraud, shall knowingly disseminate, transmit, or cause to be 43
disseminated or transmitted by means of a wire, radio, satellite, 44
telecommunication, telecommunications device, or 45
telecommunications service any writing, data, sign, signal, 46
picture, sound, or image with purpose to execute or otherwise 47
further the scheme to defraud. 48

(B) If an offender commits a violation of division (A) of 49
this section and the violation occurs as part of a course of 50
conduct involving other violations of division (A) of this section 51
or violations of, attempts to violate, conspiracies to violate, or 52
complicity in violations of section 2913.02, 2913.04, 2913.11, 53
2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised 54
Code, the court, in determining the degree of the offense pursuant 55
to division (C) of this section, may aggregate the value of the 56
benefit obtained by the offender or of the detriment to the victim 57
of the fraud in the violations involved in that course of conduct. 58
The course of conduct may involve one victim or more than one 59
victim. 60

(C) Whoever violates this section is guilty of 61
telecommunications fraud. Except as otherwise provided in this 62
division, telecommunications fraud is a felony of the fifth 63
degree. If the value of the benefit obtained by the offender or of 64
the detriment to the victim of the fraud is ~~five~~ one thousand 65
dollars or more but less than ~~one hundred~~ seven thousand five 66
hundred dollars, telecommunications fraud is a felony of the 67
fourth degree. If the value of the benefit obtained by the 68
offender or of the detriment to the victim of the fraud is ~~one~~ 69
~~hundred~~ seven thousand five hundred dollars or more but less than 70
one hundred fifty thousand dollars, telecommunications fraud is a 71
felony of the third degree. If the value of the benefit obtained 72
by the offender or of the detriment to the victims of the fraud is 73
one hundred fifty thousand dollars or more but less than one 74

million dollars, telecommunications fraud is a felony of the 75
second degree. If the value of the benefit obtained by the 76
offender or of the detriment to the victims of the fraud is one 77
million dollars or more, telecommunications fraud is a felony of 78
the first degree. 79

Sec. 4719.17. There is hereby created in the state treasury 80
the telemarketing fraud enforcement fund. The treasurer of state 81
shall deposit into the fund registration fees paid pursuant to 82
divisions (A) and (D) of section 4719.02 of the Revised Code. The 83
consumer protection section of the office of the attorney general 84
shall use the moneys in the fund ~~for the administration and~~ 85
~~enforcement of the program of registration established in sections~~ 86
~~4719.01 to 4719.18 of the Revised Code and also to pay for any~~ 87
expenses reasonably related to the administration of Chapter 4719. 88
of the Revised Code, the investigation or prosecution of any 89
crimes investigated by the consumer protection section, or for 90
educational activities that advance the purposes of ~~sections~~ 91
~~4719.01 to 4719.18 Chapter 4719.~~ of the Revised Code as set forth 92
in section 4719.18 of the Revised Code. 93

Section 2. That existing sections 2913.05 and 4719.17 of the 94
Revised Code are hereby repealed. 95