So What’s Going on in Florida Anyway?: New Robocall Bill May or May Not be Law and so Its Schrodinger’s Cat Time Again TCPAWorld

So a ton of you have been asking me about the new big Florida robocall statute and I have been holding off analyzing the thing because its not entirely clear if and when it will become law.

Here’s the quick and dirty version.

The Bill would require express written consent for all marketing calls made using an “autodialer”—more on that—or a prerecorded voice, regardless of whether or not you have an established business relationship with the customer. And while a more limited version of this bill was already on the books in Florida it lacked a private right of action—but that may be about to change as the new bill affords a right of action for $500.00 a call.

Sound familiar?
There's a bunch of other harrowing provisions as well—like a “called party” definition that will make it impossible to every have a meaningful defense. And of course this will be a state statute—not a federal one—which means... yeah, even more uncertainty.

Speaking of uncertainty, unlike the TCPA—which has a pristine and clear ATDS definition that took 30 years and a Supreme Court decision to decipher—the Florida statute has no definition of what constitutes an “autodialer” at all. And there’s zero case law around it—since there was no private right of action before.

So... good luck, wild west, have fun, blindfolded pinata swinging madness, and all that.

Luckily, the enactment is almost certainly unconstitutional, although the Legislative staffers working on the bill apparently disagree and think this thing passes First Amendment muster under *Central Hudson* which is probably not true, and completely irrelevant, since the enactment is PLAINLY content-specific and fails AAPC’s grander test of... “you can’t do that.”

**Ironing board, remember?**

Anyway this statute is a mess, which is why I haven’t touched it. But now it has become even more fun because it may or may not already be the law.

Another “S-Cat” situation.

So in Florida if a bill is sent to the Governor it becomes law within 10 days of receipt unless it is sooner vetoed. The bill was sent to the Governor in late April, according to news reports. So it could easily be the law already by the state’s automatic signature provision. (Talk about a *robo-bill*. Am I right?)*rimshot*

But there’s a problem—of course. No one knows for sure when the bill was actually “received” by the state’s “I'm-the-next-Trump-but-nicer-and-running-for-president-likely-against-the-real-Trump” Governor Desantis.

So the bill may already be law. Or it may be sitting on an empty desk in the governor’s mansion somewhere in an unopened envelope.

Isn’t Democracy grand?

Bill is here if you want to read it: [Florida Robocall Bill 1120 As Enrolled](https://www.natlawreview.com/article/so-what-s-going-florida-anyway-new-robocall-bill-may-or-may-not-be-law-and-so-its)

I promise more coverage when this thing is real.

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