

106TH CONGRESS
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[Report No. 106-]

To amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2000

Mr. FRIST (for himself, Mr. ROBB, Ms. COLLINS, Mr. HELMS, Mr. LEAHY, Mr. REED, Mr. SESSIONS, Mr. ABRAHAM, Mr. DURBIN, Mrs. MURRAY, and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER —, 2000

Reported by Mr. MCCAIN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Know Your Caller Act
3 of 2000”.

4 **SEC. 2. PROHIBITION ON INTERFERENCE WITH CALLER**
5 **IDENTIFICATION SERVICES.**

6 (a) *IN GENERAL.*—Section 227 of the Communica-
7 tions Act of 1934 (47 U.S.C. 227) is amended—

8 (1) by redesignating subsections (e) and (f) as
9 subsections (f) and (g), respectively; and

10 (2) by inserting after subsection (d) the fol-
11 lowing new subsection:

12 “(e) **PROHIBITION ON INTERFERENCE WITH CALLER**
13 **IDENTIFICATION SERVICES.**—

14 “(1) **IN GENERAL.**—It shall be unlawful for any
15 person or entity within the United States, in making
16 any *commercial* telephone solicitation, to interfere
17 with or circumvent the ability of a caller identifica-
18 tion service to access or provide to the recipient of
19 the call the information about the call (as required
20 under the regulations issued under paragraph (2))
21 that such service is capable of providing.

22 “(2) **REGULATIONS.**—Not later than ~~6~~ 18
23 months after the date of the enactment of the Know
24 Your Caller Act of 2000, the Commission shall pre-
25 scribe regulations to implement this subsection
26 which shall—

1 “(A) require any person or entity making
2 a *commercial* telephone solicitation to make
3 such solicitation in a manner such that a recipi-
4 ent of such solicitation having a caller identi-
5 fication service capable of providing such infor-
6 mation will be provided by such service with—

7 “(i) the name of the person or entity
8 on whose behalf such solicitation is being
9 ~~made;~~ *made, or the name of the person or*
10 *entity making the solicitation;* and

11 “(ii) a valid and working telephone
12 number at which the caller or the person
13 or entity on whose behalf such solicitation
14 was made may be reached during regular
15 business hours for the purpose of request-
16 ing that the recipient of such solicitation
17 be placed on the do-not-call list required
18 under section 64.1200 of the Commission’s
19 regulations (47 CFR 64.1200) to be main-
20 tained by the person making such solicita-
21 tion; and

22 “(B) provide that any person or entity who
23 receives a request from a person to be placed on
24 such do-not-call list may not use such person’s
25 name and telephone number for any other tele-

1 ~~marketing, mail marketing, or telemarketing or~~
2 other marketing purpose (including transfer or
3 sale to any other entity for marketing use)
4 other than enforcement of such list.

5 “(2) PRIVATE RIGHT OF ACTION.—A person or
6 entity may, if otherwise permitted by the laws or
7 rules of court of a State, bring in an appropriate
8 court of that State—

9 “(A) an action based on a violation of this
10 subsection or the regulations prescribed under
11 this subsection to enjoin such violation;

12 “(B) an action to recover for actual mone-
13 tary loss from such a violation, or to receive
14 \$5,000 in damages for each such violation,
15 whichever is greater; or

16 “(C) both such actions.

17 If the court finds that the defendant willfully or
18 knowingly violated this subsection or the regulations
19 prescribed under this subsection, the court may, in
20 its discretion, increase the amount of the award to
21 an amount equal to not more than 3 times the
22 amount available under subparagraph (B).

23 “(3) DEFINITIONS.—For purposes of this sub-
24 section:

1 “(A) CALLER IDENTIFICATION SERVICE.—

2 The term ‘caller identification service’ means
3 any service or device designed to provide the
4 user of the service or device with the telephone
5 number of an incoming telephone call.

6 “(B) TELEPHONE CALL.—The term ‘tele-
7 phone call’ means any telephone call or other
8 transmission which is made to or received at a
9 telephone number of any type of telephone serv-
10 ice. Such term includes calls made by an auto-
11 matic telephone dialing system, an integrated
12 services digital network, and a commercial mo-
13 bile radio source.”.

14 ***(b) DELAYED EFFECTIVE DATE.—***

15 ***(1) IN GENERAL.—The regulations issued by the***
16 ***Federal Communications Commission under section***
17 ***227(e) of the Communications Act of 1934 (47 U.S.C.***
18 ***227(e)) shall take effect on the date that is 2 years***
19 ***after the date of enactment of this Act.***

20 ***(2) ADDITIONAL DELAY FOR GOOD CAUSE***
21 ***SHOWN.—The Commission may grant a waiver from***
22 ***compliance with those regulations for a period of not***
23 ***more than 24 months upon application (made at such***
24 ***time, in such form, and containing such information***
25 ***as the Commission may require), and after public no-***

1 *tice and an opportunity for comment, to any person*
2 *who demonstrates to the satisfaction of the Commis-*
3 *sion that—*

4 *(A) it will comply with the regulations be-*
5 *fore the expiration of the period of time for*
6 *which the waiver is requested;*

7 *(B) without the requested waiver, timely*
8 *compliance with the regulations would be tech-*
9 *nically infeasible because of technical problems*
10 *associated with the telecommunications equip-*
11 *ment used by the applicant; and*

12 *(C) replacement or upgrading of the tele-*
13 *communications equipment used by the appli-*
14 *cant in order to comply with the regulations in*
15 *a timely manner without the waiver—*

16 *(i) would impose an unduly onerous fi-*
17 *nancial burden on the applicant;*

18 *(ii) is not feasible because the equip-*
19 *ment, software, or technical assistance nec-*
20 *essary for the replacement or upgrade is not*
21 *available; or*

22 *(iii) cannot be completed before the ef-*
23 *fective date of the regulations.*

1 **SEC. 3. EFFECT ON STATE LAW AND STATE ACTIONS.**

2 (a) EFFECT ON STATE LAW.—Subsection (f)(1) of
3 section 227 of the Communications Act of 1934 (47
4 U.S.C. 227), as redesignated by section 2 of this Act, is
5 further amended—

6 (1) in subparagraph (C), by striking “or” at
7 the end;

8 (2) in subparagraph (D), by striking the period
9 and inserting “; or”; and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(E) interfering with or circumventing
13 caller identification services.”.

14 (b) ACTIONS BY STATES.—The first sentence of sub-
15 section (g)(1) of such section 227, as so redesignated, is
16 further amended by inserting after “this section,” the fol-
17 lowing: “or has engaged or is engaging in a pattern or
18 practice of interfering with or circumventing caller identi-
19 fication services of residents of that State in violation of
20 subsection (e) or the regulations prescribed under such
21 subsection,”.

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