

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 151

To deter criminal robocall violations and improve enforcement of section 227(b) of the Communications Act of 1934, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Telephone Robocall
5 Abuse Criminal Enforcement and Deterrence Act” or the
6 “TRACED Act”.

7 **SEC. 2. FORFEITURE.**

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

10 (1) in subsection (b), by adding at the end the
11 following:

1 “(4) CIVIL FORFEITURE.—

2 “(A) IN GENERAL.—Any person that is de-
3 termined by the Commission, in accordance
4 with paragraph (3) or (4) of section 503(b), to
5 have violated any provision of this subsection
6 shall be liable to the United States for a for-
7 feiture penalty pursuant to section 503(b)(1).
8 The amount of the forfeiture penalty deter-
9 mined under this subparagraph shall be deter-
10 mined in accordance with subparagraphs (A)
11 through (F) of section 503(b)(2).

12 “(B) VIOLATION WITH INTENT.—Any per-
13 son that is determined by the Commission, in
14 accordance with paragraph (3) or (4) of section
15 503(b), to have violated this subsection with the
16 intent to cause such violation shall be liable to
17 the United States for a forfeiture penalty. The
18 amount of the forfeiture penalty determined
19 under this subparagraph shall be equal to an
20 amount determined in accordance with subpara-
21 graphs (A) through (F) of section 503(b)(2)
22 plus an additional penalty not to exceed
23 \$10,000.

1 “(C) RECOVERY.—Any forfeiture penalty
2 determined under subparagraph (A) or (B)
3 shall be recoverable under section 504(a).

4 “(D) PROCEDURE.—No forfeiture liability
5 shall be determined under subparagraph (A) or
6 (B) against any person unless such person re-
7 ceives the notice required by paragraph (3) or
8 (4) of section 503(b).

9 “(E) STATUTE OF LIMITATIONS.—No for-
10 feiture penalty shall be determined or imposed
11 against any person—

12 “(i) under subparagraph (A) if the
13 violation charged occurred more than 1
14 year prior to the date of issuance of the re-
15 quired notice or notice of apparent liabil-
16 ity; and

17 “(ii) under subparagraph (B) if the
18 violation charged occurred more than 3
19 years prior to the date of issuance of the
20 required notice or notice of apparent liabil-
21 ity.

22 “(F) RULE OF CONSTRUCTION.—Notwith-
23 standing any law to the contrary, the Commis-
24 sion may not determine or impose a forfeiture

1 penalty on a person under both subparagraphs
2 (A) and (B) based on the same conduct.”; and
3 (2) by striking subsection (h).

4 (b) **APPLICABILITY.**—The amendments made by this
5 section shall not affect any action or proceeding com-
6 menced before and pending on the date of enactment of
7 this Act.

8 (c) **DEADLINE FOR REGULATIONS.**—The Federal
9 Communications Commission shall prescribe regulations
10 to implement the amendments made by this section not
11 later than 270 days after the date of enactment of this
12 Act.

13 **SEC. 3. CALL AUTHENTICATION.**

14 (a) **DEFINITIONS.**—In this section:

15 (1) **STIR/SILAKEN AUTHENTICATION FRAME-**
16 **WORK.**—The term “STIR/SILAKEN authentication
17 framework” means the secure telephone identity re-
18 visited and signature-based handling of asserted in-
19 formation using tokens standards proposed by the
20 information and communications technology indus-
21 try.

22 (2) **VOICE SERVICE.**—The term “voice serv-
23 ice”—

24 (A) means any service that is inter-
25 connected with the public switched telephone

1 network and that furnishes voice communica-
2 tions to an end user using resources from the
3 North American Numbering Plan or any suc-
4 cessor to the North American Numbering Plan
5 adopted by the Commission under section
6 251(e)(1) of the Communications Act of 1934
7 (47 U.S.C. 251(e)(1)); and

8 (B) includes—

9 (i) transmissions from a telephone
10 facsimile machine, computer, or other de-
11 vice to a telephone facsimile machine; and

12 (ii) without limitation, any service
13 that enables real-time, two-way voice com-
14 munications, including any service that re-
15 quires internet protocol-compatible cus-
16 tomer premises equipment (commonly
17 known as “CPE”) and permits out-bound
18 calling, whether or not the service is one-
19 way or two-way voice over internet pro-
20 tocol.

21 (b) AUTHENTICATION FRAMEWORK.—

22 (1) IN GENERAL.—Subject to paragraphs (2)
23 and (3), not later than 18 months after the date of
24 enactment of this Act, the Federal Communications
25 Commission shall require a provider of voice service

1 to implement the STIR/SILAKEN authentication
2 framework in the internet protocol networks of the
3 voice service provider.

4 (2) IMPLEMENTATION.—The Federal Commu-
5 nications Commission shall not take the action de-
6 scribed in paragraph (1) if the Commission deter-
7 mines that a provider of voice service, not later than
8 12 months after the date of enactment of this Act—

9 (A) has adopted the STIR/SILAKEN au-
10 thentication framework for calls on the internet
11 protocol networks of the voice service provider;

12 (B) has agreed voluntarily to participate
13 with other providers of voice service in the
14 STIR/SILAKEN authentication framework;

15 (C) has begun to implement the STIR/
16 SHAKEN authentication framework; and

17 (D) will be capable of fully implementing
18 the STIR/SHAKEN authentication framework
19 not later than 18 months after the date of en-
20 actment of this Act.

21 (3) IMPLEMENTATION REPORT.—Not later than
22 12 months after the date of enactment of this Act,
23 the Federal Communications Commission shall sub-
24 mit to the Committee on Commerce, Science, and
25 Transportation of the Senate and the Committee on

1 Energy and Commerce of the House of Representa-
2 tives a report on the determination required under
3 paragraph (2), which shall include—

4 (A) an analysis of the extent to which pro-
5 viders of a voice service have implemented the
6 STIR/SILAKEN authentication framework, in-
7 cluding whether the availability of necessary
8 equipment and equipment upgrades has im-
9 pacted such implementation; and

10 (B) an assessment of the efficacy of the
11 STIR/SILAKEN authentication framework, as
12 being implemented under this section, in ad-
13 dressing all aspects of call authentication.

14 (4) REVIEW AND REVISION OR REPLACE-
15 MENT.—Not later than 3 years after the date of en-
16 actment of this Act, and every 3 years thereafter,
17 the Federal Communications Commission, after pub-
18 lic notice and an opportunity for comment, shall—

19 (A) assess the efficacy of the call authen-
20 tication framework implemented under this sec-
21 tion;

22 (B) based on the assessment under sub-
23 paragraph (A), revise or replace the call au-
24 thentication framework under this section if the

1 Commission determines it is in the public inter-
2 est to do so; and

3 (C) submit to the Committee on Com-
4 merce, Science, and Transportation of the Sen-
5 ate and the Committee on Energy and Com-
6 merce of the House of Representatives a report
7 on the findings of the assessment under sub-
8 paragraph (A) and on any actions to revise or
9 replace the call authentication framework under
10 subparagraph (B).

11 (5) EXTENSION OF IMPLEMENTATION DEAD-
12 LINE.—The Federal Communications Commission
13 may extend any deadline for the implementation of
14 a call authentication framework required under this
15 section by 12 months or such further amount of
16 time as the Commission determines necessary if the
17 Commission determines that purchasing or upgrad-
18 ing equipment to support call authentication, or lack
19 of availability of such equipment, would constitute a
20 substantial hardship in meeting such deadline for a
21 provider or category of providers of voice service.

22 (c) SAFE HARBOR AND OTHER REGULATIONS.—

23 (1) IN GENERAL.—The Federal Communica-
24 tions Commission shall promulgate rules—

1 (A) establishing when a provider of voice
2 service may block a voice call based, in whole or
3 in part, on information provided by the call au-
4 thentication framework under subsection (b);

5 (B) establishing a safe harbor for a pro-
6 vider of voice service from liability for unin-
7 tended or inadvertent blocking of calls or for
8 the unintended or inadvertent misidentification
9 of the level of trust for individual calls based,
10 in whole or in part, on information provided by
11 the call authentication framework under sub-
12 section (b); and

13 (C) establishing a process to permit a call-
14 ing party adversely affected by the information
15 provided by the call authentication framework
16 under subsection (b) to verify the authenticity
17 of the calling party's calls.

18 (2) CONSIDERATIONS.—In establishing the safe
19 harbor under paragraph (1), the Federal Commu-
20 nications Commission shall consider limiting the li-
21 ability of a provider of voice service based on the ex-
22 tent to which the provider of voice service—

23 (A) blocks or identifies calls based, in
24 whole or in part, on the information provided

1 by the call authentication framework under sub-
2 section (b);

3 (B) implemented procedures based, in
4 whole or in part, on the information provided
5 by the call authentication framework under sub-
6 section (b); and

7 (C) used reasonable care.

8 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
9 tion shall preclude the Federal Communications Commis-
10 sion from initiating a rulemaking pursuant to its existing
11 statutory authority.

12 **SEC. 4. PROTECTIONS FROM SPOOFED CALLS.**

13 (a) **IN GENERAL.**—Not later than 1 year after the
14 date of enactment of this Act, and consistent with the call
15 authentication framework under section 3, the Federal
16 Communications Commission shall initiate a rulemaking
17 to help protect a subscriber from receiving unwanted calls
18 or text messages from a caller using an unauthenticated
19 number.

20 (b) **CONSIDERATIONS.**—In promulgating rules under
21 subsection (a), the Federal Communications Commission
22 shall consider—

23 (1) the Government Accountability Office report
24 on combating the fraudulent provision of misleading
25 or inaccurate caller identification required by section

1 503(e) of division P of the Consolidated Appropria-
2 tions Act 2018 (Public Law 115–141);

3 (2) the best means of ensuring that a sub-
4 scriber or provider has the ability to block calls from
5 a caller using an unauthenticated North American
6 Numbering Plan number;

7 (3) the impact on the privacy of a subscriber
8 from unauthenticated calls;

9 (4) the effectiveness in verifying the accuracy of
10 caller identification information; and

11 (5) the availability and cost of providing protec-
12 tion from the unwanted calls or text messages de-
13 scribed in subsection (a).

14 **SEC. 5. INTERAGENCY WORKING GROUP.**

15 (a) **IN GENERAL.**—The Attorney General, in con-
16 sultation with the Chairman of the Federal Communica-
17 tions Commission, shall convene an interagency working
18 group to study Government prosecution of violations of
19 section 227(b) of the Communications Act of 1934 (47
20 U.S.C. 227(b)).

21 (b) **DUTIES.**—In carrying out the study under sub-
22 section (a), the interagency working group shall—

23 (1) determine whether, and if so how, any Fed-
24 eral laws, including regulations, policies, and prac-

1 tices, or budgetary or jurisdictional constraints in-
2 hibit the prosecution of such violations;

3 (2) identify existing and potential Federal poli-
4 cies and programs that encourage and improve co-
5 ordination among Federal departments and agencies
6 and States, and between States, in the prevention
7 and prosecution of such violations;

8 (3) identify existing and potential international
9 policies and programs that encourage and improve
10 coordination between countries in the prevention and
11 prosecution of such violations; and

12 (4) consider—

13 (A) the benefit and potential sources of ad-
14 ditional resources for the Federal prevention
15 and prosecution of criminal violations of that
16 section;

17 (B) whether to establish memoranda of un-
18 derstanding regarding the prevention and pros-
19 ecution of such violations between—

20 (i) the States;

21 (ii) the States and the Federal Gov-
22 ernment; and

23 (iii) the Federal Government and a
24 foreign government;

1 (C) whether to establish a process to allow
2 States to request Federal subpoenas from the
3 Federal Communications Commission;

4 (D) whether extending civil enforcement
5 authority to the States would assist in the suc-
6 cessful prevention and prosecution of such vio-
7 lations;

8 (E) whether increased forfeiture and im-
9 prisonment penalties are appropriate, such as
10 extending imprisonment for such a violation to
11 a term longer than 2 years;

12 (F) whether regulation of any entity that
13 enters into a business arrangement with a com-
14 mon carrier regulated under title II of the Com-
15 munications Act of 1934 (47 U.S.C. 201 et
16 seq.) for the specific purpose of carrying, rout-
17 ing, or transmitting a call that constitutes such
18 a violation would assist in the successful pre-
19 vention and prosecution of such violations; and

20 (G) the extent to which, if any, Depart-
21 ment of Justice policies to pursue the prosecu-
22 tion of violations causing economic harm, phys-
23 ical danger, or erosion of an inhabitant's peace
24 of mind and sense of security inhibits the pre-
25 vention or prosecution of such violations.

1 (c) MEMBERS.—The interagency working group shall
2 be composed of such representatives of Federal depart-
3 ments and agencies as the Attorney General considers ap-
4 propriate, such as—

- 5 (1) the Department of Commerce;
- 6 (2) the Department of State;
- 7 (3) the Department of Homeland Security;
- 8 (4) the Federal Communications Commission;
- 9 (5) the Federal Trade Commission; and
- 10 (6) the Bureau of Consumer Financial Protec-
11 tion.

12 (d) NON-FEDERAL STAKEHOLDERS.—In carrying
13 out the study under subsection (a), the interagency work-
14 ing group shall consult with such non-Federal stake-
15 holders as the Attorney General determines have the rel-
16 evant expertise, including the National Association of At-
17 torneys General.

18 (e) REPORT TO CONGRESS.—Not later than 270 days
19 after the date of enactment of this Act, the interagency
20 working group shall submit to the Committee on Com-
21 merce, Science, and Transportation of the Senate and the
22 Committee on Energy and Commerce of the House of
23 Representatives a report on the findings of the study
24 under subsection (a), including—

1 (1) any recommendations regarding the preven-
2 tion and prosecution of such violations; and

3 (2) a description of what progress, if any, rel-
4 evant Federal departments and agencies have made
5 in implementing the recommendations under para-
6 graph (1).

7 **SEC. 6. ACCESS TO NUMBER RESOURCES.**

8 (a) IN GENERAL.—

9 (1) EXAMINATION OF FCC POLICIES.—Not later
10 than 180 days after the date of enactment of this
11 Act, the Federal Communications Commission shall
12 commence a proceeding to determine whether Fed-
13 eral Communications Commission policies regarding
14 access to number resources, including number re-
15 sources for toll free and non-toll free telephone num-
16 bers, could be modified, including by establishing
17 registration and compliance obligations, to help re-
18 duce access to numbers by potential perpetrators of
19 violations of section 227(b) of the Communications
20 Act of 1934 (47 U.S.C. 227(b)).

21 (2) REGULATIONS.—If the Federal Commu-
22 nications Commission determines under paragraph
23 (1) that modifying the policies described in that
24 paragraph could help achieve the goal described in

1 that paragraph, the Commission shall prescribe reg-
2 ulations to implement those policy modifications.

3 (b) AUTHORITY.—Any person who knowingly,
4 through an employee, agent, officer, or otherwise, directly
5 or indirectly, by or through any means or device whatso-
6 ever, is a party to obtaining number resources, including
7 number resources for toll free and non-toll free telephone
8 numbers, from a common carrier regulated under title II
9 of the Communications Act of 1934 (47 U.S.C. 201 et
10 seq.), in violation of a regulation prescribed under sub-
11 section (a) of this section, shall, notwithstanding section
12 503(b)(5) of the Communications Act of 1934 (47 U.S.C.
13 503(b)(5)), be subject to a forfeiture penalty under section
14 503 of that Act. A forfeiture penalty under this subsection
15 shall be in addition to any other penalty provided for by
16 law.