

107TH CONGRESS
1ST SESSION

H. R. 90

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 HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. FRELINGHUYSEN introduced the following bill; which was referred to the Committee on Energy and Commerce

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Know Your Caller Act
5 of 2001”.

1 **SEC. 2. PROHIBITION OF INTERFERENCE WITH CALLER**
2 **IDENTIFICATION SERVICES.**

3 Section 227 of the Communications Act of 1934 (47
4 U.S.C. 227) is amended—

5 (1) by redesignating subsections (e) and (f) as
6 subsections (f) and (g), respectively; and

7 (2) by inserting after subsection (d) the fol-
8 lowing new subsection:

9 “(e) PROHIBITION ON INTERFERENCE WITH CALLER
10 IDENTIFICATION SERVICES.—

11 “(1) IN GENERAL.—It shall be unlawful for any
12 person within the United States, in making any tele-
13 phone solicitation—

14 “(A) to interfere with or circumvent the
15 capability of a caller identification service to ac-
16 cess or provide to the recipient of the telephone
17 call involved in the solicitation any information
18 regarding the call that such service is capable
19 of providing; and

20 “(B) to fail to provide caller identification
21 information in a manner that is accessible by a
22 caller identification service, if such person has
23 capability to provide such information in such a
24 manner.

25 For purposes of this section, the use of a tele-
26 communications service or equipment that is incapa-

1 ble of transmitting caller identification information
2 shall not, of itself, constitute interference with or
3 circumvention of the capability of a caller identifica-
4 tion service to access or provide such information.

5 “(2) REGULATIONS.—Not later than 6 months
6 after the enactment of the Know Your Caller Act of
7 2001, the Commission shall prescribe regulations to
8 implement this subsection, which shall—

9 “(A) specify that the information regard-
10 ing a call that the prohibition under paragraph
11 (1) applies to includes—

12 “(i) the name of the person or entity
13 who makes the telephone call involved in
14 the solicitation;

15 “(ii) the name of the person or entity
16 on whose behalf the solicitation is made;
17 and

18 “(iii) a valid and working telephone
19 number at which the person or entity on
20 whose behalf the telephone solicitation is
21 made may be reached during regular busi-
22 ness hours for the purpose of requesting
23 that the recipient of the solicitation be
24 placed on the do-not-call list required
25 under section 64.1200 of the Commission’s

1 regulations (47 CFR 64.1200) to be main-
2 tained by such person or entity; and

3 “(B) provide that any person or entity who
4 receives a request from a person to be placed on
5 such do-not-call list may not use such person’s
6 name and telephone number for telemarketing,
7 mail marketing, or other marketing purpose
8 (including transfer or sale to any other entity
9 for marketing use) other than enforcement of
10 such list.

11 “(3) PRIVATE RIGHT OF ACTION.—A person or
12 entity may, if otherwise permitted by the laws or
13 rules of court of a State, bring in an appropriate
14 court of that State—

15 “(A) an action based on a violation of this
16 subsection or the regulations prescribed under
17 this subsection to enjoin such violation;

18 “(B) an action to recover for actual mone-
19 tary loss from such a violation, or to receive
20 \$500 in damages for each such violation, which-
21 ever is greater; or

22 “(C) both such actions.

23 If the court finds that the defendant willfully or
24 knowingly violated this subsection or the regulations
25 prescribed under this subsection, the court may, in

1 its discretion, increase the amount of the award to
2 an amount equal to not more than 3 times the
3 amount available under subparagraph (B) of this
4 paragraph.

5 “(4) DEFINITIONS.—For purposes of this sub-
6 section:

7 “(A) CALLER IDENTIFICATION SERVICE.—
8 The term ‘caller identification service’ means
9 any service or device designed to provide the
10 user of the service or device with the telephone
11 number of an incoming telephone call.

12 “(B) TELEPHONE CALL.—The term ‘tele-
13 phone call’ means any telephone call or other
14 transmission which is made to or received at a
15 telephone number of any type of telephone serv-
16 ice and includes telephone calls made using the
17 Internet (irrespective of the type of customer
18 premises equipment used in connection with
19 such services). Such term also includes calls
20 made by an automatic telephone dialing system,
21 an integrated services digital network, and a
22 commercial mobile radio source.”.

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

24 (a) EFFECT ON STATE LAW.—Subsection (f)(1) of
25 section 227 of the Communications Act of 1934 (47

1 U.S.C. 227(f)(1)), as so redesignated by section 2(1) of
2 this Act, is further amended by inserting after “subsection
3 (d)” the following: “and the prohibition under paragraphs
4 (1) and (2) of subsection (e),”.

5 (b) ACTIONS BY STATES.—The first sentence of sub-
6 section (g)(1) of section 227 of the Communications Act
7 of 1934 (47 U.S.C. 227(g)(1)), as so redesignated by sec-
8 tion 2(1) of this Act, is further amended by striking “tele-
9 phone calls” and inserting “telephone solicitations, tele-
10 phone calls, or”.

11 **SEC. 4. STUDY REGARDING TRANSMISSION OF CALLER**
12 **IDENTIFICATION INFORMATION.**

13 The Federal Communications Commission shall con-
14 duct a study to determine—

15 (1) the extent of the capability of the public
16 switched network to transmit the information that
17 can be accessed by caller identification services;

18 (2) the types of telecommunications equipment
19 being used in the telemarketing industry, the extent
20 of such use, and the capabilities of such types of
21 equipment to transmit the information that can be
22 accessed by caller identification services; and

23 (3) the changes to the public switched network
24 and to the types of telecommunications equipment
25 commonly being used in the telemarketing industry

1 that would be necessary to provide for the public
2 switched network to be able to transmit caller identi-
3 fication information on all telephone calls, and the
4 costs (including costs to the telemarketing industry)
5 to implement such changes.

6 The Commission shall complete the study and submit a
7 report to the Congress on the results of the study, not
8 later than one year after the date of the enactment of this
9 Act.

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