

Union Calendar No. 8

107TH CONGRESS
1ST SESSION

H. R. 90

[Report No. 107-13]

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

MARCH 12, 2001

Additional sponsors: Mr. BACA, Mr. GREENWOOD, Mr. HORN, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Ms. BERKLEY, Mr. WATKINS, Mr. CASTLE, Mr. FRANK, Mr. DUNCAN, Mr. PALLONE, Mr. BASS, Mr. REGULA, Mr. LUCAS of Kentucky, Mr. BRADY of Texas, Mr. THOMAS M. DAVIS of Virginia, Mr. MCHUGH, Mr. PETRI, Mr. BENTSEN, Mr. GILCHREST, Mr. WAMP, Mr. PASCRELL, Mr. QUINN, Mrs. EMERSON, Mr. SIMMONS, Mr. HOLT, Mr. BALDACCI, Mr. MCINTYRE, Mr. HOLDEN, Mr. LANTOS, Mr. ROTHMAN, Ms. HART, Mr. HILLEARY, Mr. HINCHEY, Mr. McDERMOTT, Mr. GILLMOR, Mr. LARSON of Connecticut, Mr. EVANS, Mr. BAIRD, Mr. GRAHAM, Mr. STRICKLAND, Ms. RIVERS, Mr. MCGOVERN, Mr. LOBIONDO, Mr. UPTON, Mr. HAYWORTH, Mr. PHELPS, Mr. GOODLATTE, Mrs. MORELLA, Mr. SCHIFF, and Mr. ROSS

MARCH 12, 2001

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

1 call involved in the solicitation any information
2 regarding the call that such service is capable
3 of providing; and

4 “(B) to fail to provide caller identification
5 information in a manner that is accessible by a
6 caller identification service, if such person has
7 capability to provide such information in such a
8 manner.

9 For purposes of this section, the use of a tele-
10 communications service or equipment that is incapa-
11 ble of transmitting caller identification information
12 shall not, of itself, constitute interference with or
13 circumvention of the capability of a caller identifica-
14 tion service to access or provide such information.

15 “(2) REGULATIONS.—Not later than 6 months
16 after the enactment of the Know Your Caller Act of
17 2001, the Commission shall prescribe regulations to
18 implement this subsection, which shall—

19 “(A) specify that the information regard-
20 ing a call that the prohibition under paragraph
21 (1) applies to includes—

22 “(i) the name of the person or entity
23 who makes the telephone call involved in
24 the solicitation;

1 “(ii) the name of the person or entity
2 on whose behalf the solicitation is made;
3 and

4 “(iii) a valid and working telephone
5 number at which the person or entity on
6 whose behalf the telephone solicitation is
7 made may be reached during regular busi-
8 ness hours for the purpose of requesting
9 that the recipient of the solicitation be
10 placed on the do-not-call list required
11 under section 64.1200 of the Commission’s
12 regulations (47 CFR 64.1200) to be main-
13 tained by such person or entity; and

14 “(B) provide that any person or entity who
15 receives a request from a person to be placed on
16 such do-not-call list may not use such person’s
17 name and telephone number for telemarketing,
18 mail marketing, or other marketing purpose
19 (including transfer or sale to any other entity
20 for marketing use) other than enforcement of
21 such list.

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

1 “(A) an action based on a violation of this
2 subsection or the regulations prescribed under
3 this subsection to enjoin such violation;

4 “(B) an action to recover for actual mone-
5 etary loss from such a violation, or to receive
6 \$500 in damages for each such violation, which-
7 ever is greater; or

8 “(C) both such actions.

9 If the court finds that the defendant willfully or
10 knowingly violated this subsection or the regulations
11 prescribed under this subsection, the court may, in
12 its discretion, increase the amount of the award to
13 an amount equal to not more than 3 times the
14 amount available under subparagraph (B) of this
15 paragraph.

16 “(4) DEFINITIONS.—For purposes of this sub-
17 section:

18 “(A) CALLER IDENTIFICATION SERVICE.—
19 The term ‘caller identification service’ means
20 any service or device designed to provide the
21 user of the service or device with the telephone
22 number of an incoming telephone call.

23 “(B) TELEPHONE CALL.—The term ‘tele-
24 phone call’ means any telephone call or other
25 transmission which is made to or received at a

1 telephone number of any type of telephone serv-
2 ice and includes telephone calls made using the
3 Internet (irrespective of the type of customer
4 premises equipment used in connection with
5 such services). Such term also includes calls
6 made by an automatic telephone dialing system,
7 an integrated services digital network, and a
8 commercial mobile radio source.”.

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

10 (a) **EFFECT ON STATE LAW.**—Subsection (f)(1) of
11 section 227 of the Communications Act of 1934 (47
12 U.S.C. 227(f)(1)), as so redesignated by section 2(1) of
13 this Act, is further amended by inserting after “subsection
14 (d)” the following: “and the prohibition under paragraphs
15 (1) and (2) of subsection (e),”.

16 (b) **ACTIONS BY STATES.**—The first sentence of sub-
17 section (g)(1) of section 227 of the Communications Act
18 of 1934 (47 U.S.C. 227(g)(1)), as so redesignated by sec-
19 tion 2(1) of this Act, is further amended by striking “tele-
20 phone calls” and inserting “telephone solicitations, tele-
21 phone calls, or”.

22 **SEC. 4. STUDY REGARDING TRANSMISSION OF CALLER**
23 **IDENTIFICATION INFORMATION.**

24 The Federal Communications Commission shall con-
25 duct a study to determine—

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

4 (2) the types of telecommunications equipment
5 being used in the telemarketing industry, the extent
6 of such use, and the capabilities of such types of
7 equipment to transmit the information that can be
8 accessed by caller identification services; and

9 (3) the changes to the public switched network
10 and to the types of telecommunications equipment
11 commonly being used in the telemarketing industry
12 that would be necessary to provide for the public
13 switched network to be able to transmit caller identi-
14 fication information on all telephone calls, and the
15 costs (including costs to the telemarketing industry)
16 to implement such changes.

17 The Commission shall complete the study and submit a
18 report to the Congress on the results of the study, not
19 later than one year after the date of the enactment of this
20 Act.

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A BILL

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