

107TH CONGRESS  
1ST SESSION

# S. 722

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.

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## IN THE SENATE OF THE UNITED STATES

APRIL 5, 2001

Mr. FRIST (for himself, Mr. REED, and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## 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 “Telemarketer Identi-  
5       fication Act of 2001”.

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

3 (a) IN GENERAL.—Section 227 of the Communica-  
4 tions Act of 1934 (47 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 (e):

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

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

19 “(2) REGULATIONS.—Not later than 18 months  
20 after the date of the enactment of the Telemarketer  
21 Identification Act of 2001, the Commission shall  
22 prescribe regulations to implement this subsection.  
23 The regulations shall—

24 “(A) require any person or entity making  
25 a commercial telephone solicitation to make  
26 such solicitation in a manner such that a recipi-

1 ent of such solicitation having a caller identi-  
2 fication service capable of providing such infor-  
3 mation will be provided by such service with—

4 “(i) the name of the person or entity  
5 on whose behalf such solicitation is being  
6 made, or the name of the person or entity  
7 making the solicitation; and

8 “(ii) a valid and working telephone  
9 number at which the person or entity mak-  
10 ing such solicitation or the person or entity  
11 on whose behalf such solicitation was made  
12 may be reached during regular business  
13 hours for the purpose of requesting that  
14 the recipient of such solicitation be placed  
15 on the do-not-call list required under sec-  
16 tion 64.1200 of the Commission’s regula-  
17 tions (47 C.F.R. 64.1200) to be main-  
18 tained by the person making such solicita-  
19 tion; and

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

1           any other entity for telemarketing use) other  
2           than enforcement of such list.

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

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

10                   “(B) an action to recover for actual mone-  
11                   tary loss from such a violation, or to receive  
12                   \$500 in damages for each such violation, which-  
13                   ever is greater; or

14                   “(C) both such actions.

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

21           “(4) DEFINITIONS.—In this subsection:

22                   “(A) CALLER IDENTIFICATION SERVICE.—  
23                   The term ‘caller identification service’ means  
24                   any service or device designed to provide the

1 user of the service or device with the telephone  
2 number of an incoming telephone call.

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

11 (b) DELAYED EFFECTIVE DATE.—

12 (1) IN GENERAL.—The regulations prescribed  
13 by the Federal Communications Commission under  
14 subsection (e) of section 227 of the Communications  
15 Act of 1934, as added by subsection (a), shall take  
16 effect on the date that is two years after the date  
17 of the enactment of this Act.

18 (2) ADDITIONAL DELAY FOR GOOD CAUSE  
19 SHOWN.—The Commission may grant a wavier from  
20 compliance with the regulations referred to in para-  
21 graph (1) for a period of not more than 24 months  
22 upon application (made at such time, in such form,  
23 and containing such information as the Commission  
24 may require), and after notice to the public and an  
25 opportunity for comment, to any person who dem-

1       onstrates to the satisfaction of the Commission  
2       that—

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

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

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

15                      (i) would impose an unduly onerous  
16      financial burden on the applicant;

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

21                      (iii) cannot be completed before the  
22      effective date of the regulations.

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), as redesignated by section 2 of this Act, is  
2 further amended—

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

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

7 (3) by adding at the end the following new sub-  
8 paragraph:

9 “(E) interfering with or circumventing  
10 caller identification services.”.

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

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