

108TH CONGRESS
1ST SESSION

S. 1973

To amend the Communications Act of 1934 to protect the privacy rights
of subscribers to wireless communications services.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 25, 2003

Mr. DEWINE introduced the following bill; which was read twice and referred
to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to protect the
privacy rights of subscribers to wireless communications
services.

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 “Wireless 411 Privacy
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) There are roughly 150 million wireless sub-
9 sscribers in the United States, up from approximately
10 15 million subscribers just a decade ago.

1 (2) Wireless phone service has proven valuable
2 to millions of Americans because of its mobility, and
3 the fact that government policies have expanded op-
4 portunities for new carriers to enter the market, of-
5 fering more choices and ever lower prices for con-
6 sumers.

7 (3) In addition to the benefits of competition
8 and mobility, subscribers also benefit from the fact
9 that wireless phone numbers have not been publicly
10 available.

11 (4) Up until now, the privacy of wireless sub-
12 scribers has been safeguarded and thus vastly dimin-
13 ished the likelihood of subscribers receiving un-
14 wanted or annoying phone call interruptions on their
15 wireless phones.

16 (5) Moreover, because their wireless contact in-
17 formation, such as their phone number, have never
18 been publicly available in any published directory or
19 from any directory assistance service, subscribers
20 have come to expect that if their phone rings it's
21 likely to be a call from someone to whom they have
22 personally given their number.

23 (6) The wireless industry is poised to begin im-
24 plementing a directory assistance service so that
25 callers can reach wireless subscribers, including sub-

1 subscribers who have not given such callers their wire-
2 less phone number.

3 (7) While some wireless subscribers may find
4 such directory assistance service useful, current sub-
5 scribers deserve the right to choose whether they
6 want to participate in such a directory.

7 (8) Because wireless users are typically charged
8 for incoming calls, consumers must be afforded the
9 ability to maintain the maximum amount of control
10 over how many calls they may expect to receive and,
11 in particular, control over the disclosure of their
12 wireless phone number.

13 (9) Current wireless subscribers who elect to
14 participate, or new wireless subscribers who decline
15 to be listed, in any new wireless directory assistance
16 service directory, including those subscribers who
17 also elect not to receive forwarded calls from any
18 wireless directory assistance service, should not be
19 charged for exercising such rights.

20 (10) The marketplace has not yet adequately
21 explained an effective plan to protect consumer pri-
22 vacy rights.

23 (11) Congress previously acted to protect the
24 wireless location information of subscribers by enact-
25 ing prohibitions on the disclosure of such sensitive

1 information without the express prior authorization
2 of the subscriber.

3 (12) The public interest would be served by
4 similarly enacting effective and industry-wide privacy
5 protections for consumers with respect to wireless
6 directory assistance service.

7 **SEC. 3. CONSUMER CONTROL OF WIRELESS PHONE NUM-**
8 **BERS.**

9 Section 332(c) of the Communications Act of 1934
10 (47 U.S.C. 332(c)) is amended by adding at the end the
11 following new paragraph:

12 “(9) WIRELESS CONSUMER PRIVACY PROTEC-
13 TION.—

14 “(A) CURRENT SUBSCRIBERS.—A provider
15 of commercial mobile services, or any direct or
16 indirect affiliate or agent of such a provider,
17 may not include the wireless telephone number
18 information of any current subscriber in any
19 wireless directory assistance service database
20 unless—

21 “(i) the mobile service provider pro-
22 vides a conspicuous, separate notice to the
23 subscriber informing the subscriber of the
24 right not to be listed in any wireless direc-
25 tory assistance service; and

1 “(ii) the mobile service provider ob-
2 tains express prior authorization for listing
3 from such subscriber, separate from any
4 authorization obtained to provide such sub-
5 scriber with commercial mobile service, or
6 any calling plan or service associated with
7 such commercial mobile service, and such
8 authorization has not been subsequently
9 withdrawn.

10 “(B) NEW SUBSCRIBERS.—A provider of
11 commercial mobile services, or any direct or in-
12 direct affiliate or agent of such a provider, may
13 include the wireless telephone number informa-
14 tion of any new subscriber in a wireless direc-
15 tory assistance service database only if the com-
16 mercial mobile service provider—

17 “(i) provides a conspicuous, separate
18 notice to the subscriber, at the time of en-
19 tering into an agreement to provide com-
20 mercial mobile service, and at least once a
21 year thereafter, informing the subscriber of
22 the right not to be listed in any wireless di-
23 rectory assistance service database; and

24 “(ii) provides the subscriber with con-
25 venient mechanisms by which the sub-

1 subscriber may decline or refuse to participate
2 in such database, including mechanisms at
3 the time of entering into an agreement to
4 provide commercial mobile service, in the
5 billing of such service, and when receiving
6 any connected call from a wireless direc-
7 tory assistance service.

8 “(C) CALL FORWARDING.—A provider of
9 commercial mobile services, or any direct or in-
10 direct affiliate or agent of such provider, may
11 connect a calling party from a wireless directory
12 assistance service to a commercial mobile serv-
13 ice subscriber only if—

14 “(i) such subscriber is provided prior
15 notice of the calling party’s identity and is
16 permitted to accept or reject the incoming
17 call on a per-call basis;

18 “(ii) such subscriber’s wireless tele-
19 phone number information is not disclosed
20 to the calling party; and

21 “(iii) such subscriber is not an un-
22 listed commercial mobile service subscriber.

23 “(D) PUBLICATION OF DIRECTORIES PRO-
24 HIBITED.—A provider of commercial mobile
25 services, or any direct or indirect affiliate or

1 agent of such a provider, may not publish, in
2 printed, electronic, or other form, the contents
3 of any wireless directory assistance service
4 database, or any portion or segment thereof.

5 “(E) NO CONSUMER FEE FOR RETAINING
6 PRIVACY.—A provider of commercial mobile
7 services may not charge any subscriber for exer-
8 cising any of the rights under this paragraph.

9 “(F) DEFINITIONS.—For purposes of this
10 paragraph—

11 “(i) the term ‘current subscriber’
12 means any subscriber to commercial mobile
13 service as of the date when a wireless di-
14 rectory assistance service is implemented
15 by a provider of commercial mobile service;

16 “(ii) the term ‘new subscriber’ means
17 any subscriber to commercial mobile serv-
18 ice who becomes a subscriber after the
19 date when a wireless directory assistance
20 service is implemented by a provider of
21 commercial mobile service, and includes
22 any subscriber of a different provider of
23 commercial mobile service who subse-
24 quently switches to a new provider of com-
25 mercial mobile service;

1 “(iii) the term ‘wireless telephone
2 number information’ means the telephone
3 number, electronic address, and any other
4 identifying information by which a calling
5 party may reach a subscriber to commer-
6 cial mobile services, and which is assigned
7 by a commercial mobile service provider to
8 such subscriber, and includes such sub-
9 scriber’s name and address;

10 “(iv) the term ‘wireless directory as-
11 sistance service’ means any service for con-
12 necting calling parties to a subscriber of
13 commercial mobile service when such call-
14 ing parties themselves do not possess such
15 subscriber’s wireless telephone number in-
16 formation;

17 “(v) the term ‘calling party’s identity’
18 means the telephone number of the calling
19 party or the name of subscriber to such
20 telephone, or an oral or text message which
21 provides sufficient information to enable a
22 commercial mobile services subscriber to
23 determine who is calling; and

24 “(vi) the term ‘unlisted commercial
25 mobile services subscriber’ means—

1 “(I) a current subscriber to com-
2 mercial mobile services who has not
3 provided express prior consent to a
4 commercial mobile service provider to
5 be included in a wireless directory as-
6 sistance service database; and

7 “(II) a new subscriber to com-
8 mercial mobile service who has exer-
9 cised the right contained in subpara-
10 graph (B)(ii) to decline or refuse such
11 inclusion.”.

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