

109TH CONGRESS
1ST SESSION

H. R. 1139

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2005

Mr. PITTS (for himself, Mr. MARKEY, Mr. SHADEGG, Ms. ESHOO, Mr. NORWOOD, Mrs. CAPPS, Mr. ISSA, Mr. COX, Mr. AKIN, Mr. DEFAZIO, Mr. BARTLETT of Maryland, Mr. MURTHA, Mr. McDERMOTT, Mr. CALVERT, Mr. McCOTTER, Mr. ENGLISH of Pennsylvania, Mr. FILNER, Mr. GILCHREST, Ms. MCCOLLUM of Minnesota, Mrs. MCCARTHY, Mr. MICHAUD, Mr. KENNEDY of Minnesota, and Mr. MILLER of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

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:

1 (1) There are roughly 150 million wireless sub-
2 scribers in the United States, up from approximately
3 15 million subscribers just a decade ago.

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

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

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

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

1 (6) The wireless industry is poised to begin im-
2 plementing a directory assistance service so that
3 callers can reach wireless subscribers, including sub-
4 scribers who have not given such callers their wire-
5 less phone number.

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

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

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

23 (10) The marketplace has not yet adequately
24 explained an effective plan to protect consumer pri-
25 vacy rights.

1 (11) Congress previously acted to protect the
2 wireless location information of subscribers by enact-
3 ing prohibitions on the disclosure of such sensitive in-
4 formation without the express prior authorization of
5 the subscriber.

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

10 **SEC. 3. CONSUMER CONTROL OF WIRELESS PHONE NUM-**
11 **BERS.**

12 Section 332(c) of the Communications Act of 1934
13 (47 U.S.C. 332(c)) is amended by adding at the end the
14 following new paragraph:

15 “(9) WIRELESS CONSUMER PRIVACY PROTEC-
16 TION.—

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

24 “(i) the mobile service provider pro-
25 vides a conspicuous, separate notice to the

1 subscriber informing the subscriber of the
2 right not to be listed in any wireless direc-
3 tory assistance service; and

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

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

20 “(i) provides a conspicuous, separate
21 notice to the subscriber, at the time of en-
22 tering into an agreement to provide com-
23 mercial mobile service, and at least once a
24 year thereafter, informing the subscriber of

1 the right not to be listed in any wireless di-
2 rectory assistance service database; and

3 “(ii) provides the subscriber with con-
4 venient mechanisms by which the sub-
5 scriber may decline or refuse to participate
6 in such database, including mechanisms at
7 the time of entering into an agreement to
8 provide commercial mobile service, in the
9 billing of such service, and when receiving
10 any connected call from a wireless direc-
11 tory assistance service.

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

18 “(i) such subscriber is provided prior
19 notice of the calling party’s identity and is
20 permitted to accept or reject the incoming
21 call on a per-call basis;

22 “(ii) such subscriber’s wireless tele-
23 phone number information is not disclosed
24 to the calling party; and

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

3 “(D) PUBLICATION OF DIRECTORIES PRO-
4 HIBITED.—A provider of commercial mobile
5 services, or any direct or indirect affiliate or
6 agent of such a provider, may not publish, in
7 printed, electronic, or other form, the contents
8 of any wireless directory assistance service
9 database, or any portion or segment thereof.

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

14 “(F) DEFINITIONS.—For purposes of this
15 paragraph—

16 “(i) the term ‘current subscriber’
17 means any subscriber to commercial mobile
18 service as of the date when a wireless di-
19 rectory assistance service is implemented
20 by a provider of commercial mobile service;

21 “(ii) the term ‘new subscriber’ means
22 any subscriber to commercial mobile serv-
23 ice who becomes a subscriber after the
24 date when a wireless directory assistance
25 service is implemented by a provider of

1 commercial mobile service, and includes
2 any subscriber of a different provider of
3 commercial mobile service who subse-
4 quently switches to a new provider of com-
5 mercial mobile service;

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

15 “(iv) the term ‘wireless directory as-
16 sistance service’ means any service for con-
17 necting calling parties to a subscriber of
18 commercial mobile service when such call-
19 ing parties themselves do not possess such
20 subscriber’s wireless telephone number in-
21 formation; and

22 “(v) the term ‘calling party’s identity’
23 means the telephone number of the calling
24 party or the name of subscriber to such
25 telephone, or an oral or text message which

1 provides sufficient information to enable a
2 commercial mobile services subscriber to
3 determine who is calling;

4 “(vi) the term ‘unlisted commercial
5 mobile services subscriber’ means—

6 “(I) a current subscriber to com-
7 mercial mobile services who has not
8 provided express prior consent to a
9 commercial mobile service provider to
10 be included in a wireless directory as-
11 sistance service database; and

12 “(II) a new subscriber to com-
13 mercial mobile service who has exer-
14 cised the right contained in subpara-
15 graph (B)(ii) to decline or refuse to
16 such inclusion.”.

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