

Calendar No. 519

110TH CONGRESS
1ST SESSION

S. 704

[Report No. 110-234]

To amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2007

Mr. NELSON of Florida (for himself, Ms. SNOWE, Mrs. MCCASKILL, Mr. STEVENS, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 5, 2007

Reported by Mr. INOUE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

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 “~~Truth in Caller ID~~
5 ~~Act of 2007~~”.

1 **SEC. 2. PROHIBITION REGARDING MANIPULATION OF**
 2 **CALLER IDENTIFICATION INFORMATION.**

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

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

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

9 “(e) **PROHIBITION ON PROVISION OF INACCURATE**
 10 **CALLER IDENTIFICATION INFORMATION.—**

11 “(1) **IN GENERAL.—**It shall be unlawful for any
 12 person within the United States, in connection with
 13 any telecommunications service or IP-enabled voice
 14 service, to cause any caller identification service to
 15 transmit misleading or inaccurate caller identifica-
 16 tion information, unless such transmission is ex-
 17 empted pursuant to paragraph (3)(B).

18 “(2) **PROTECTION FOR BLOCKING CALLER**
 19 **IDENTIFICATION INFORMATION.—**Nothing in this
 20 subsection may be construed to prevent or restrict
 21 any person from blocking the capability of any caller
 22 identification service to transmit caller identification
 23 information.

24 “(3) **REGULATIONS.—**

25 “(A) **IN GENERAL.—**Not later than 6
 26 months after the enactment of this subsection,

1 the Commission shall prescribe regulations to
 2 implement this subsection.

3 “(B) CONTENT OF REGULATIONS.—

4 “(i) IN GENERAL.—The regulations
 5 required under subparagraph (A) shall in-
 6 clude such exemptions from the prohibition
 7 under paragraph (1) as the Commission
 8 determines appropriate.

9 “(ii) SPECIFIC EXEMPTION FOR LAW
 10 ENFORCEMENT AGENCIES OR COURT OR-
 11 DERS.—The regulations required under
 12 subparagraph (A) shall exempt from the
 13 prohibition under paragraph (1) trans-
 14 missions in connection with—

15 “(I) any authorized activity of a
 16 law enforcement agency; or

17 “(II) a court order that specifi-
 18 cally authorizes the use of caller iden-
 19 tification manipulation.

20 “(4) REPORT.—Not later than 6 months after
 21 the enactment of this subsection, the Commission
 22 shall report to Congress whether additional legisla-
 23 tion is necessary to prohibit the provision of inae-
 24 curate caller identification information in tech-
 25 nologies that are successor or replacement tech-

1 nologies to telecommunications service or IP-enabled
2 voice service.

3 ~~“(5) PENALTIES.—~~

4 ~~“(A) CIVIL FORFEITURE.—~~

5 ~~“(i) IN GENERAL.—Any person that is~~
6 ~~determined by the Commission, in accord-~~
7 ~~ance with paragraphs (3) and (4) of sec-~~
8 ~~tion 503(b), to have violated this sub-~~
9 ~~section shall be liable to the United States~~
10 ~~for a forfeiture penalty. A forfeiture pen-~~
11 ~~alty under this paragraph shall be in addi-~~
12 ~~tion to any other penalty provided for by~~
13 ~~this Act. The amount of the forfeiture pen-~~
14 ~~alty determined under this paragraph shall~~
15 ~~not exceed \$10,000 for each violation, or 3~~
16 ~~times that amount for each day of a con-~~
17 ~~tinuing violation, except that the amount~~
18 ~~assessed for any continuing violation shall~~
19 ~~not exceed a total of \$1,000,000 for any~~
20 ~~single act or failure to act.~~

21 ~~“(ii) RECOVERY.—Any forfeiture pen-~~
22 ~~alty determined under clause (i) shall be~~
23 ~~recoverable pursuant to section 504(a).~~

24 ~~“(iii) PROCEDURE.—No forfeiture li-~~
25 ~~ability shall be determined under clause (i)~~

1 against any person unless such person re-
 2 ceives the notice required by section
 3 ~~503(b)(3)~~ or section ~~503(b)(4)~~.

4 ~~“(iv) 2-YEAR STATUTE OF LIMITA-~~
 5 ~~TIONS.—No forfeiture penalty shall be de-~~
 6 ~~termined or imposed against any person~~
 7 ~~under clause (i) if the violation charged oc-~~
 8 ~~curred more than 2 years prior to the date~~
 9 ~~of issuance of the required notice or notice~~
 10 ~~or apparent liability.~~

11 ~~“(B) CRIMINAL FINE.—Any person who~~
 12 ~~willfully and knowingly violates this subsection~~
 13 ~~shall upon conviction thereof be fined not more~~
 14 ~~than \$10,000 for each violation, or 3 times that~~
 15 ~~amount for each day of a continuing violation,~~
 16 ~~in lieu of the fine provided by section 501 for~~
 17 ~~such a violation. This subparagraph does not~~
 18 ~~supersede the provisions of section 501 relating~~
 19 ~~to imprisonment or the imposition of a penalty~~
 20 ~~of both fine and imprisonment.~~

21 ~~“(6) ENFORCEMENT BY STATES.—~~

22 ~~“(A) IN GENERAL.—The chief legal officer~~
 23 ~~of a State, or any other State officer authorized~~
 24 ~~by law to bring actions on behalf of the resi-~~
 25 ~~dents of a State, may bring a civil action, as~~

1 parens patriae, on behalf of the residents of
2 that State in an appropriate district court of
3 the United States to enforce this subsection or
4 to impose the civil penalties for violation of this
5 subsection, whenever the chief legal officer or
6 other State officer has reason to believe that
7 the interests of the residents of the State have
8 been or are being threatened or adversely af-
9 fected by a violation of this subsection or a reg-
10 ulation under this subsection.

11 “(B) NOTICE.—The chief legal officer or
12 other State officer shall serve written notice on
13 the Commission of any civil action under sub-
14 paragraph (A) prior to initiating such civil ac-
15 tion. The notice shall include a copy of the com-
16 plaint to be filed to initiate such civil action, ex-
17 cept that if it is not feasible for the State to
18 provide such prior notice, the State shall pro-
19 vide such notice immediately upon instituting
20 such civil action.

21 “(C) AUTHORITY TO INTERVENE.—Upon
22 receiving the notice required by subparagraph
23 (B), the Commission may intervene in such civil
24 action and upon intervening—

1 “(i) be heard on all matters arising in
2 such civil action; and

3 “(ii) file petitions for appeal of a deci-
4 sion in such civil action.

5 “(D) CONSTRUCTION.—For purposes of
6 bringing any civil action under subparagraph
7 (A), nothing in this paragraph shall prevent the
8 chief legal officer or other State officer from ex-
9 ercising the powers conferred on that officer by
10 the laws of such State to conduct investigations
11 or to administer oaths or affirmations or to
12 compel the attendance of witnesses or the pro-
13 duction of documentary and other evidence.

14 “(E) VENUE; SERVICE OR PROCESS.—

15 “(i) VENUE.—An action brought
16 under subparagraph (A) shall be brought
17 in a district court of the United States
18 that meets applicable requirements relating
19 to venue under section 1391 of title 28,
20 United States Code.

21 “(ii) SERVICE OF PROCESS.—In an
22 action brought under subparagraph (A)—

23 “(I) process may be served with-
24 out regard to the territorial limits of

1 the district or of the State in which
 2 the action is instituted; and

3 “(H) a person who participated
 4 in an alleged violation that is being
 5 litigated in the civil action may be
 6 joined in the civil action without re-
 7 gard to the residence of the person.

8 “(F) LIMITATION ON STATE ACTION
 9 WHILE FEDERAL ACTION IS PENDING.—If the
 10 Commission has instituted an enforcement ac-
 11 tion or proceeding for violation of this sub-
 12 section, the chief legal officer or other State of-
 13 ficer of the State in which the violation oc-
 14 curred may not bring an action under this sec-
 15 tion during the pendency of the proceeding
 16 against any person with respect to whom the
 17 Commission has instituted the proceeding.

18 “(7) DEFINITIONS.—For purposes of this sub-
 19 section:

20 “(A) CALLER IDENTIFICATION INFORMA-
 21 TION.—The term ‘caller identification informa-
 22 tion’ means information provided by a caller
 23 identification service regarding the telephone
 24 number of, or other information regarding the

1 origination of, a call made using a telecommuni-
2 cations service or IP-enabled voice service.

3 “(B) ~~CALLER IDENTIFICATION SERVICE.~~—

4 The term ‘caller identification service’ means
5 any service or device designed to provide the
6 user of the service or device with the telephone
7 number of, or other information regarding the
8 origination of, a call made using a telecommuni-
9 cations service or IP-enabled voice service. Such
10 term includes automatic number identification
11 services.

12 “(C) ~~IP-ENABLED VOICE SERVICE.~~—The
13 term ‘IP-enabled voice service’ means the provi-
14 sion of real-time 2-way voice communications
15 offered to the public, or such classes of users as
16 to be effectively available to the public, trans-
17 mitted through customer premises equipment
18 using TCP/IP protocol, or a successor protocol,
19 for a fee (whether part of a bundle of services
20 or separately) with interconnection capability
21 such that the service can originate traffic to, or
22 terminate traffic from, the public switched tele-
23 phone network.

24 “(S) ~~LIMITATION.~~—Notwithstanding any other
25 provision of this section, subsection (f) shall not

1 apply to this subsection or to the regulations under
 2 this subsection.”

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Truth in Caller ID Act*
 5 *of 2007”.*

6 **SEC. 2. PROHIBITION REGARDING MANIPULATION OF CALL-**
 7 **ER IDENTIFICATION INFORMATION.**

8 *Section 227 of the Communications Act of 1934 (47*
 9 *U.S.C. 227) is amended—*

10 (1) *by redesignating subsections (e), (f), and (g)*
 11 *as subsections (f), (g), and (h), respectively; and*

12 (2) *by inserting after subsection (d) the following*
 13 *new subsection:*

14 *“(e) PROHIBITION ON PROVISION OF INACCURATE*
 15 *CALLER IDENTIFICATION INFORMATION.—*

16 *“(1) IN GENERAL.—It shall be unlawful for any*
 17 *person within the United States, in connection with*
 18 *any telecommunications service or IP-enabled voice*
 19 *service, to cause any caller identification service to*
 20 *knowingly transmit misleading or inaccurate caller*
 21 *identification information with the intent to defraud,*
 22 *cause harm, or wrongfully obtain anything of value,*
 23 *unless such transmission is exempted pursuant to*
 24 *paragraph (3)(B).*

1 “(2) *PROTECTION FOR BLOCKING CALLER IDENTIFICATION INFORMATION.*—*Nothing in this subsection may be construed to prevent or restrict any*
2 *person from blocking the capability of any caller*
3 *identification service to transmit caller identification*
4 *information.*
5

6 “(3) *REGULATIONS.*—

7 “(A) *IN GENERAL.*—*Not later than 6*
8 *months after the date of enactment of the Truth*
9 *in Caller ID Act of 2007, the Commission shall*
10 *prescribe regulations to implement this sub-*
11 *section.*
12

13 “(B) *CONTENT OF REGULATIONS.*—

14 “(i) *IN GENERAL.*—*The regulations re-*
15 *quired under subparagraph (A) shall in-*
16 *clude such exemptions from the prohibition*
17 *under paragraph (1) as the Commission de-*
18 *termines is appropriate.*

19 “(ii) *SPECIFIC EXEMPTION FOR LAW*
20 *ENFORCEMENT AGENCIES OR COURT OR-*
21 *DERS.*—*The regulations required under sub-*
22 *paragraph (A) shall exempt from the prohi-*
23 *bition under paragraph (1) transmissions*
24 *in connection with—*

1 “(I) any authorized activity of a
2 law enforcement agency; or

3 “(II) a court order that specifi-
4 cally authorizes the use of caller identi-
5 fication manipulation.

6 “(iii) *EFFECT ON OTHER LAWS.*—
7 Nothing in this subsection shall be construed
8 to authorize or prohibit any investigative,
9 protective, or intelligence activities per-
10 formed in connection with official duties
11 and in accordance with all applicable laws,
12 by a law enforcement agency of the United
13 States, a State, or a political subdivision of
14 a State, or by an intelligence agency of the
15 United States.

16 “(4) *REPORT.*—Not later than 6 months after the
17 enactment of the Truth in Caller ID Act of 2007, the
18 Commission shall report to Congress whether addi-
19 tional legislation is necessary to prohibit the provi-
20 sion of inaccurate caller identification information in
21 technologies that are successor or replacement tech-
22 nologies to telecommunications service or IP-enabled
23 voice service.

24 “(5) *PENALTIES.*—

25 “(A) *CIVIL FORFEITURE.*—

1 “(i) *IN GENERAL.*—Any person that is
2 determined by the Commission, in accord-
3 ance with paragraphs (3) and (4) of section
4 503(b), to have violated this subsection shall
5 be liable to the United States for a forfeiture
6 penalty. A forfeiture penalty under this
7 paragraph shall be in addition to any other
8 penalty provided for by this Act. The
9 amount of the forfeiture penalty determined
10 under this paragraph shall not exceed
11 \$10,000 for each violation, or 3 times that
12 amount for each day of a continuing viola-
13 tion, except that the amount assessed for
14 any continuing violation shall not exceed a
15 total of \$1,000,000 for any single act or
16 failure to act.

17 “(ii) *RECOVERY.*—Any forfeiture pen-
18 alty determined under clause (i) shall be re-
19 coverable pursuant to section 504(a).

20 “(iii) *PROCEDURE.*—No forfeiture li-
21 ability shall be determined under clause (i)
22 against any person unless such person re-
23 ceives the notice required by section
24 503(b)(3) or section 503(b)(4).

1 “(iv) *2-YEAR STATUTE OF LIMITA-*
2 *TIONS.—No forfeiture penalty shall be deter-*
3 *mined or imposed against any person under*
4 *clause (i) if the violation charged occurred*
5 *more than 2 years prior to the date of*
6 *issuance of the required notice or notice or*
7 *apparent liability.*

8 “(B) *CRIMINAL FINE.—Any person who*
9 *willfully and knowingly violates this subsection*
10 *shall upon conviction thereof be fined not more*
11 *than \$10,000 for each violation, or 3 times that*
12 *amount for each day of a continuing violation,*
13 *in lieu of the fine provided by section 501 for*
14 *such a violation. This subparagraph does not su-*
15 *persede the provisions of section 501 relating to*
16 *imprisonment or the imposition of a penalty of*
17 *both fine and imprisonment.*

18 “(6) *ENFORCEMENT BY STATES.—*

19 “(A) *IN GENERAL.—The chief legal officer of*
20 *a State, or any other State officer authorized by*
21 *law to bring actions on behalf of the residents of*
22 *a State, may bring a civil action, as parens*
23 *patriae, on behalf of the residents of that State*
24 *in an appropriate district court of the United*
25 *States to enforce this subsection or to impose the*

1 *civil penalties for violation of this subsection,*
2 *whenever the chief legal officer or other State of-*
3 *ficer has reason to believe that the interests of the*
4 *residents of the State have been or are being*
5 *threatened or adversely affected by a violation of*
6 *this subsection or a regulation under this sub-*
7 *section.*

8 “(B) NOTICE.—*The chief legal officer or*
9 *other State officer shall serve written notice on*
10 *the Commission of any civil action under sub-*
11 *paragraph (A) prior to initiating such civil ac-*
12 *tion. The notice shall include a copy of the com-*
13 *plaint to be filed to initiate such civil action, ex-*
14 *cept that if it is not feasible for the State to pro-*
15 *vide such prior notice, the State shall provide*
16 *such notice immediately upon instituting such*
17 *civil action.*

18 “(C) AUTHORITY TO INTERVENE.—*Upon re-*
19 *ceiving the notice required by subparagraph (B),*
20 *the Commission shall have the right—*

21 “(i) *to intervene in the action;*

22 “(ii) *upon so intervening, to be heard*
23 *on all matters arising therein; and*

24 “(iii) *to file petitions for appeal.*

1 “(D) *CONSTRUCTION.*—*For purposes of*
2 *bringing any civil action under subparagraph*
3 *(A), nothing in this paragraph shall prevent the*
4 *chief legal officer or other State officer from exer-*
5 *cising the powers conferred on that officer by the*
6 *laws of such State to conduct investigations or to*
7 *administer oaths or affirmations or to compel*
8 *the attendance of witnesses or the production of*
9 *documentary and other evidence.*

10 “(E) *VENUE; SERVICE OR PROCESS.*—

11 “(i) *VENUE.*—*An action brought under*
12 *subparagraph (A) shall be brought in a dis-*
13 *trict court of the United States that meets*
14 *applicable requirements relating to venue*
15 *under section 1391 of title 28, United States*
16 *Code.*

17 “(ii) *SERVICE OF PROCESS.*—*In an ac-*
18 *tion brought under subparagraph (A)—*

19 “(I) *process may be served with-*
20 *out regard to the territorial limits of*
21 *the district or of the State in which the*
22 *action is instituted; and*

23 “(II) *a person who participated*
24 *in an alleged violation that is being*
25 *litigated in the civil action may be*

1 *joined in the civil action without re-*
2 *gard to the residence of the person.*

3 “(7) *DEFINITIONS.—For purposes of this sub-*
4 *section:*

5 “(A) *CALLER IDENTIFICATION INFORMA-*
6 *TION.—The term ‘caller identification informa-*
7 *tion’ means information provided by a caller*
8 *identification service regarding the telephone*
9 *number of, or other information regarding the*
10 *origination of, a call made using a telecommuni-*
11 *cations service or IP-enabled voice service.*

12 “(B) *CALLER IDENTIFICATION SERVICE.—*
13 *The term ‘caller identification service’ means*
14 *any service or device designed to provide the user*
15 *of the service or device with the telephone number*
16 *of, or other information regarding the origina-*
17 *tion of, a call made using a telecommunications*
18 *service or IP-enabled voice service. Such term in-*
19 *cludes automatic number identification services.*

20 “(C) *IP-ENABLED VOICE SERVICE.—The*
21 *term ‘IP-enabled voice service’ has the meaning*
22 *given that term by section 9.3 of the Commis-*
23 *sion’s regulations (47 C.F.R. 9.3), as those regu-*
24 *lations may be amended by the Commission from*
25 *time to time.*

1 “(8) *LIMITATION.*—*Notwithstanding any other*
2 *provision of this section, subsection (f) shall not apply*
3 *to this subsection or to the regulations under this sub-*
4 *section.*”

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