

Calendar No. 194

111TH CONGRESS
1ST SESSION

S. 30

[Report No. 111–96]

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

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2009

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

NOVEMBER 2, 2009

Reported by Mr. ROCKEFELLER, without amendment

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 2009”.

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 knowingly transmit misleading or inaccurate caller
16 identification information with the intent to defraud,
17 cause harm, or wrongfully obtain anything of value,
18 unless such transmission is exempted pursuant to
19 paragraph (3)(B).

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

26 “(3) REGULATIONS.—

1 “(A) IN GENERAL.—Not later than 6
2 months after the date of enactment of the
3 Truth in Caller ID Act of 2009, the Commis-
4 sion shall prescribe regulations to implement
5 this subsection.

6 “(B) CONTENT OF REGULATIONS.—

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

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

18 “(I) any authorized activity of a
19 law enforcement agency; or

20 “(II) a court order that specifi-
21 cally authorizes the use of caller iden-
22 tification manipulation.

23 “(iii) EFFECT ON OTHER LAWS.—
24 Nothing in this subsection shall be con-
25 strued to authorize or prohibit any inves-

1 tigative, protective, or intelligence activities
2 performed in connection with official duties
3 and in accordance with all applicable laws,
4 by a law enforcement agency of the United
5 States, a State, or a political subdivision of
6 a State, or by an intelligence agency of the
7 United States.

8 “(4) REPORT.—Not later than 6 months after
9 the enactment of the Truth in Caller ID Act of
10 2009, the Commission shall report to Congress
11 whether additional legislation is necessary to pro-
12 hibit the provision of inaccurate caller identification
13 information in technologies that are successor or re-
14 placement technologies to telecommunications service
15 or IP-enabled voice service.

16 “(5) PENALTIES.—

17 “(A) CIVIL FORFEITURE.—

18 “(i) IN GENERAL.—Any person that is
19 determined by the Commission, in accord-
20 ance with paragraphs (3) and (4) of sec-
21 tion 503(b), to have violated this sub-
22 section shall be liable to the United States
23 for a forfeiture penalty. A forfeiture pen-
24 alty under this paragraph shall be in addi-
25 tion to any other penalty provided for by

1 this Act. The amount of the forfeiture pen-
 2 alty determined under this paragraph shall
 3 not exceed \$10,000 for each violation, or 3
 4 times that amount for each day of a con-
 5 tinuing violation, except that the amount
 6 assessed for any continuing violation shall
 7 not exceed a total of \$1,000,000 for any
 8 single act or failure to act.

9 “(ii) RECOVERY.—Any forfeiture pen-
 10 alty determined under clause (i) shall be
 11 recoverable pursuant to section 504(a).

12 “(iii) PROCEDURE.—No forfeiture li-
 13 ability shall be determined under clause (i)
 14 against any person unless such person re-
 15 ceives the notice required by section
 16 503(b)(3) or section 503(b)(4).

17 “(iv) 2-YEAR STATUTE OF LIMITA-
 18 TIONS.—No forfeiture penalty shall be de-
 19 termined or imposed against any person
 20 under clause (i) if the violation charged oc-
 21 curred more than 2 years prior to the date
 22 of issuance of the required notice or notice
 23 or apparent liability.

24 “(B) CRIMINAL FINE.—Any person who
 25 willfully and knowingly violates this subsection

1 shall upon conviction thereof be fined not more
2 than \$10,000 for each violation, or 3 times that
3 amount for each day of a continuing violation,
4 in lieu of the fine provided by section 501 for
5 such a violation. This subparagraph does not
6 supersede the provisions of section 501 relating
7 to imprisonment or the imposition of a penalty
8 of both fine and imprisonment.

9 “(6) ENFORCEMENT BY STATES.—

10 “(A) IN GENERAL.—The chief legal officer
11 of a State, or any other State officer authorized
12 by law to bring actions on behalf of the resi-
13 dents of a State, may bring a civil action, as
14 parens patriae, on behalf of the residents of
15 that State in an appropriate district court of
16 the United States to enforce this subsection or
17 to impose the civil penalties for violation of this
18 subsection, whenever the chief legal officer or
19 other State officer has reason to believe that
20 the interests of the residents of the State have
21 been or are being threatened or adversely af-
22 fected by a violation of this subsection or a reg-
23 ulation under this subsection.

24 “(B) NOTICE.—The chief legal officer or
25 other State officer shall serve written notice on

the Commission of any civil action under subparagraph (A) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

“(C) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subparagraph (B), the Commission shall have the right—

“(i) to intervene in the action;

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

“(iii) to file petitions for appeal.

“(D) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this paragraph shall prevent the chief legal officer or other State officer from exercising the powers conferred on that officer by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(E) VENUE; SERVICE OR PROCESS.—

1 “(i) VENUE.—An action brought
 2 under subparagraph (A) shall be brought
 3 in a district court of the United States
 4 that meets applicable requirements relating
 5 to venue under section 1391 of title 28,
 6 United States Code.

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

9 “(I) process may be served with-
 10 out regard to the territorial limits of
 11 the district or of the State in which
 12 the action is instituted; and

13 “(II) a person who participated
 14 in an alleged violation that is being
 15 litigated in the civil action may be
 16 joined in the civil action without re-
 17 gard to the residence of the person.

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’ has the meaning
14 given that term by section 9.3 of the Commis-
15 sion’s regulations (47 C.F.R. 9.3), as those reg-
16 ulations may be amended by the Commission
17 from time to time.

18 “(8) LIMITATION.—Notwithstanding any other
19 provision of this section, subsection (f) shall not
20 apply to this subsection or to the regulations under
21 this subsection.”.

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