

114TH CONGRESS
2D SESSION

S. 3026

To amend the Communications Act of 1934 to expand and clarify the prohibition on inaccurate caller identification information and to require providers of telephone service to offer technology to subscribers to reduce the incidence of unwanted telephone calls, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2016

Mr. SCHUMER 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 expand and clarify the prohibition on inaccurate caller identification information and to require providers of telephone service to offer technology to subscribers to reduce the incidence of unwanted telephone calls, 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 “Repeated Objectionable
5 Bothering of Consumers on Phones Act” or the
6 “ROBOCOP Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The incidence of unwanted telephone calls is
4 a nationwide nuisance.

5 (2) In 2015, the Federal Trade Commission re-
6 ceived more than 3,500,000 complaints about un-
7 wanted telephone calls.

8 (3) Telephone scammers target vulnerable con-
9 sumers, particularly the elderly.

10 (4) The national “do-not-call” registry has ef-
11 fectively addressed unwanted telephone calls from le-
12 gitimate companies, but consumers continue to be
13 subject to unwanted calls originating from sources
14 outside the United States and illegitimate operators.

15 (5) Unwanted telephone calls cost consumers an
16 estimated \$350,000,000 in 2011.

17 (6) Existing Federal law is inadequate to ad-
18 dress this problem.

19 (7) Preventing unwanted telephone calls from
20 reaching consumers requires—

21 (A) identifying which calls are unwanted;
22 and

23 (B) giving the consumers the ability to
24 block or filter such calls.

1 **SEC. 3. EXPANDING AND CLARIFYING PROHIBITION ON IN-**
 2 **ACCURATE CALLER ID INFORMATION.**

3 (a) COMMUNICATIONS FROM OUTSIDE UNITED
 4 STATES.—Section 227(e)(1) of the Communications Act
 5 of 1934 (47 U.S.C. 227(e)(1)) is amended by inserting
 6 “or any person outside the United States if the recipient
 7 is within the United States,” after “United States,”.

8 (b) TEXT MESSAGING SERVICE.—Section 227(e)(8)
 9 of the Communications Act of 1934 (47 U.S.C. 227(e)(8))
 10 is amended—

11 (1) in subparagraph (A), by inserting “or a text
 12 message sent using a text messaging service” before
 13 the period at the end;

14 (2) in subparagraph (B), in the first sentence,
 15 by inserting “or a text message sent using a text
 16 messaging service” before the period at the end; and

17 (3) by adding at the end the following:

18 “(D) TEXT MESSAGE.—The term ‘text
 19 message’—

20 “(i) means a real-time or near real-
 21 time digital message consisting of text, im-
 22 ages, sounds, or other information that is
 23 transmitted from or received by a device
 24 that is identified as the transmitting or re-
 25 ceiving device by means of a telephone
 26 number;

1 “(ii) includes—

2 “(I) a short message service
3 (commonly known as ‘SMS’) message;

4 “(II) an enhanced message serv-
5 ice (commonly known as ‘EMS’) mes-
6 sage; and

7 “(III) a multimedia message
8 service (commonly known as ‘MMS’)
9 message; and

10 “(iii) does not include a real-time, 2-
11 way voice or video communication.

12 “(E) TEXT MESSAGING SERVICE.—The
13 term ‘text messaging service’ means a service
14 that permits the transmission or receipt of a
15 text message, including a service provided as
16 part of or in connection with a telecommuni-
17 cations service or an IP-enabled voice service.”.

18 (c) REGULATIONS.—

19 (1) IN GENERAL.—Section 227(e)(3)(A) of the
20 Communications Act of 1934 (47 U.S.C.
21 227(e)(3)(A)) is amended by striking “Not later
22 than 6 months after the date of enactment of the
23 Truth in Caller ID Act of 2009, the Commission”
24 and inserting “The Commission”.

1 (2) DEADLINE.—Not later than 18 months
 2 after the date of enactment of this Act, the Federal
 3 Communications Commission shall prescribe regula-
 4 tions to implement the amendments made by this
 5 section.

6 (d) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply beginning on the date that is 180
 8 days after the date on which the Federal Communications
 9 Commission prescribes regulations under subsection
 10 (c)(2).

11 **SEC. 4. TECHNOLOGY REQUIREMENTS.**

12 (a) IN GENERAL.—Section 227(d) of the Commu-
 13 nications Act of 1934 (47 U.S.C. 227(d)) is amended by
 14 adding at the end the following:

15 “(4) TECHNOLOGY OFFERED BY PROVIDERS.—

16 “(A) DEFINITIONS.—In this paragraph—

17 “(i) the term ‘IP-enabled voice serv-
 18 ice’ has the meaning given the term in sub-
 19 section (e)(8);

20 “(ii) the term ‘originating provider’
 21 means a provider of telecommunications
 22 service or a provider of IP-enabled voice
 23 service that permits a subscriber to origi-
 24 nate a call that may be transmitted on the
 25 public switched telephone network; and

1 “(iii) the term ‘receiving provider’
2 means a provider of telecommunications
3 service or a provider of IP-enabled voice
4 service that permits a subscriber to receive
5 a call originating or that may be trans-
6 mitted on the public switched telephone
7 network.

8 “(B) REQUIREMENTS TO OFFER TECH-
9 NOLOGY.—The Commission shall prescribe reg-
10 ulations establishing technical and procedural
11 standards that require—

12 “(i) any originating provider to en-
13 able, for each subscriber of the provider
14 and for no additional charge, technology
15 that verifies, for any telephone call origi-
16 nated by the subscriber, that the caller
17 identification information indicated for the
18 call accurately identifies the subscriber un-
19 less—

20 “(I) the subscriber establishes a
21 legitimate need under subparagraph
22 (C) to provide misleading or inac-
23 curate information for certain calls,
24 such as for a call made to conduct an

1 activity of a domestic violence shelter
2 or a medical practice; or

3 “(II) the call is exempted under
4 subsection (e)(3)(B)(ii) from the pro-
5 hibition under subsection (e)(1); and

6 “(ii) any receiving provider, for each
7 subscriber of the provider and for no addi-
8 tional charge—

9 “(I) to enable, and to offer the
10 option to disable, technology that—

11 “(aa) determines whether an
12 incoming telephone call is verified
13 by the technology enabled under
14 clause (i) as providing caller
15 identification information that
16 accurately identifies the person
17 originating the call;

18 “(bb) if the incoming tele-
19 phone call is verified as described
20 in item (aa), allows the sub-
21 scriber to receive the call; and

22 “(cc) if the incoming tele-
23 phone call is not verified as de-
24 scribed in item (aa), prevents the

1 subscriber from receiving the call;
2 and

3 “(II) to offer the option to enable
4 technology that—

5 “(aa) identifies an incoming
6 telephone call as originating or
7 probably originating from an
8 automatic telephone dialing sys-
9 tem or as using or probably using
10 an artificial or prerecorded voice;
11 and

12 “(bb) prevents the sub-
13 scriber from receiving such a call
14 unless the call is made by a pub-
15 lic safety entity, including a pub-
16 lic safety answering point, as de-
17 fined in section 222(h), an emer-
18 gency operations center, or a law
19 enforcement agency, or unless
20 the subscriber provides prior ex-
21 press consent to receive the call.

22 “(C) EXEMPTION PROCESS.—The stand-
23 ards established under subparagraph (B)(i)
24 shall provide for a process by which—

1 “(i) a subscriber may demonstrate to
 2 the originating provider that—

3 “(I) the subscriber has a legiti-
 4 mate need, under subclause (I) of that
 5 subparagraph, to provide misleading
 6 or inaccurate caller identification in-
 7 formation for certain calls; or

8 “(II) some or all of the calls of
 9 the subscriber are exempted, under
 10 the regulations prescribed under sub-
 11 section (e)(3)(B)(ii), from the prohibi-
 12 tion under subsection (e)(1); and

13 “(ii) the originating provider shall en-
 14 sure, if the provider makes a favorable de-
 15 termination with respect to the calls de-
 16 scribed in subclause (I) or (II) of clause
 17 (i), that the technology enabled under sub-
 18 paragraph (B)(i) verifies those calls as
 19 originating from the subscriber.

20 “(D) APPEALS PROCESS.—The standards
 21 established under subparagraph (B)(ii)(II) shall
 22 provide for an appeals process by which—

23 “(i) a person may notify a receiving
 24 provider that the technology offered by the
 25 provider under that subparagraph—

1 “(I) incorrectly identifies the
2 telephone calls of that person as—

3 “(aa) originating or prob-
4 ably originating from an auto-
5 matic telephone dialing system;
6 or

7 “(bb) using or probably
8 using an artificial or prerecorded
9 voice; or

10 “(II) prevents subscribers from
11 receiving calls originated by that per-
12 son that are permitted under item
13 (bb) of that subparagraph; and

14 “(ii) the receiving provider so notified
15 shall, if the provider finds that the tech-
16 nology offered by the provider incorrectly
17 identifies the telephone calls of the person
18 in a manner described in clause (i)(I) or
19 prevents subscribers from receiving calls in
20 a manner described in clause (i)(II), take
21 such action as is reasonably necessary to
22 correct that incorrect identification or
23 allow for the receipt of those calls, respec-
24 tively.

25 “(E) PRIVATE RIGHT OF ACTION.—

1 “(i) IN GENERAL.—A person may
 2 bring an action, in an appropriate district
 3 court of the United States, or, if otherwise
 4 permitted by the laws or rules of court of
 5 a State, in an appropriate court of that
 6 State—

7 “(I) to enjoin a violation of the
 8 regulations prescribed under clause (i)
 9 or (ii) of subparagraph (B); or

10 “(II) to recover the greater of—

11 “(aa) the actual monetary
 12 loss from such a violation; or

13 “(bb) \$500 in damages for
 14 each such violation.

15 “(ii) ENHANCED AWARDS.—If a court
 16 finds that the defendant in an action under
 17 clause (i) willfully or knowingly violated
 18 the regulations described in subclause (I)
 19 of that clause, the court may increase the
 20 amount of the award to an amount equal
 21 to not more than 3 times the amount avail-
 22 able under clause (i)(II).

23 “(F) RULES OF CONSTRUCTION.—

24 “(i) PREVENTION OF CALLS.—For
 25 purposes of a regulation prescribed under

1 this paragraph, a call shall be considered
 2 to be prevented even if the call is recorded
 3 or redirected in a manner that allows the
 4 called party to—

5 “(I) be notified of the attempt to
 6 make the call; or

7 “(II) have access to a message
 8 left by the calling party.

9 “(ii) BLOCKING CALLER IDENTIFICA-
 10 TION INFORMATION.—Nothing in this
 11 paragraph may be construed to require an
 12 originating provider to prevent or restrict
 13 any person from blocking the capability of
 14 any caller identification service to transmit
 15 caller identification information.”.

16 (b) ACTIONS BY STATES.—Section 227(g)(1) of the
 17 Communications Act of 1934 (47 U.S.C. 227(g)(1)) is
 18 amended, in the first sentence—

19 (1) by inserting after “to residents of that
 20 State” the following: “, a pattern or practice of fail-
 21 ure to provide the technology required under clause
 22 (i) of subsection (d)(4)(B) that threatens or ad-
 23 versely affects an interest of those residents, or a
 24 pattern or practice of failure to provide to those resi-

1 dents the technology or the options, as applicable,
2 required under clause (ii) of that subsection,”; and

3 (2) by inserting after “to enjoin such calls” the
4 following: “or such a failure”.

5 (c) REGULATIONS.—

6 (1) IN GENERAL.—Not later than 18 months
7 after the date of enactment of this Act, the Federal
8 Communications Commission shall prescribe the reg-
9 ulations required under section 227(d)(4) of the
10 Communications Act of 1934, as added by sub-
11 section (a).

12 (2) EFFECTIVE DATE.—The regulations de-
13 scribed in paragraph (1) shall apply beginning on
14 the date that is 180 days after the date on which
15 the Federal Communications Commission prescribes
16 those regulations.

17 **SEC. 5. INTENTIONAL INTERFERENCE WITH CALL-BLOCK-**
18 **ING TECHNOLOGY.**

19 (a) IN GENERAL.—Section 227 of the Communica-
20 tions Act of 1934 (47 U.S.C. 227) is amended by adding
21 at the end the following:

22 “(i) INTENTIONAL INTERFERENCE WITH CALL-
23 BLOCKING TECHNOLOGY.—

24 “(1) IN GENERAL.—It shall be unlawful for any
25 person within the United States, or any person out-

1 side the United States if the recipient is within the
2 United States, with the intent to cause harm, to
3 take any action that causes the technology offered
4 under subsection (d)(4)(B)(ii)(II) to—

5 “(A) incorrectly identify telephone calls

6 as—

7 “(i) originating or probably origi-
8 nating from an automatic telephone dialing
9 system; or

10 “(ii) using or probably using an artifi-
11 cial or prerecorded voice; or

12 “(B) prevent, as that term is used in sub-
13 section (d)(4), the called party from receiving a
14 call—

15 “(i) made by a public safety entity, in-
16 cluding—

17 “(I) a public safety answering
18 point, as defined in section 222(h);

19 “(II) an emergency operations
20 center; or

21 “(III) a law enforcement agency;
22 or

23 “(ii) to which the called party has
24 provided prior express consent.

1 “(2) PENALTIES; ACTIONS BY STATES.—Any
2 person who violates this subsection or the regula-
3 tions prescribed under this subsection shall be sub-
4 ject to the penalties under paragraph (5) of sub-
5 section (e), and to actions by States under para-
6 graph (6) of that subsection, in the same manner
7 and to the same extent as if the person had violated
8 subsection (e) or the regulations prescribed under
9 that subsection.”.

10 (b) DEADLINE FOR REGULATIONS.—Not later than
11 18 months after the date of enactment of this Act, the
12 Federal Communications Commission shall prescribe regu-
13 lations to implement section 227(i) of the Communications
14 Act of 1934, as added by subsection (a).

15 (c) EFFECTIVE DATE OF REGULATIONS.—Section
16 227(i) of the Communications Act of 1934, as added by
17 subsection (a), shall apply beginning on the date that is
18 180 days after the date on which the Federal Communica-
19 tions Commission prescribes regulations under subsection
20 (b).

21 **SEC. 6. REPORTS TO CONGRESS.**

22 (a) CALLER NAME FALSIFICATION.—Not later than
23 180 days after the date of enactment of this Act, the Fed-
24 eral Communications Commission shall, in consultation
25 with the Federal Trade Commission, submit to Congress

1 and make available on a public website a report containing
2 the findings and conclusions of a study determining how
3 to minimize the extent to which caller names are falsified
4 in caller identification name databases.

5 (b) TECHNOLOGY REQUIREMENTS.—

6 (1) IN GENERAL.—Not later than 4 years after
7 the date of enactment of this Act, and every 4 years
8 thereafter until the date of termination described in
9 paragraph (2), the Federal Communications Com-
10 mission shall submit to Congress and make available
11 on a public website a report that—

12 (A) analyzes the extent to which sub-
13 scribers—

14 (i) continue to receive calls with mis-
15 leading or inaccurate caller identification
16 information, except for calls from entities
17 with a legitimate need to provide inac-
18 curate caller identification information and
19 calls exempted under section
20 227(e)(3)(B)(ii) of the Communications
21 Act of 1934 (47 U.S.C. 227(e)(3)(B)(ii)),
22 including a quantitative assessment of the
23 change in the number of complaints made
24 to the Commission regarding those calls—

1 (I) before the effective date de-
2 scribed in section 4(c)(2) of this Act;
3 and

4 (II) after that effective date; and

5 (ii) that choose to enable technology
6 offered under section 227(d)(4)(B)(ii)(II)
7 of the Communications Act of 1934, as
8 added by section 4(a), continue to receive
9 calls originating from an automatic tele-
10 phone dialing system or using an artificial
11 or prerecorded voice, except for calls from
12 public safety entities and calls to which
13 subscribers have provided prior express
14 consent, including a quantitative assess-
15 ment of the change in the number of com-
16 plaints made to the Commission regarding
17 those calls—

18 (I) before the effective date de-
19 scribed in section 4(c)(2) of this Act;
20 and

21 (II) after that effective date;

22 (B) assesses whether—

23 (i) the standards set forth in the regu-
24 lations described in section 4(c)(1) have
25 been successful in reducing the number of

1 the calls described in clauses (i) and (ii) of
2 subparagraph (A) of this paragraph re-
3 ceived by subscribers; and

4 (ii) there have been any problems with
5 those standards or the technology required
6 by those standards, such as the prevention
7 of calls from public safety entities or calls
8 to which subscribers have provided prior
9 express consent; and

10 (C) contains any recommendations for leg-
11 islative or regulatory action to improve the
12 standards described in subparagraph (B).

13 (2) TERMINATION.—The date of termination
14 described in this paragraph is the date on which the
15 Federal Communications Commission, in consulta-
16 tion with the Federal Trade Commission, determines
17 that the report required under paragraph (1) is no
18 longer necessary because of a substantial reduction
19 in the number of calls described in each of clauses
20 (i) and (ii) of paragraph (1)(A).

○