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1ST SESSION

H. R. 946

To amend the Communications Act of 1934 to clarify the prohibitions on making robocalls, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2019

Mr. PALLONE (for himself, Ms. ESHOO, Mr. ENGEL, Ms. DEGETTE, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. MATSUI, Mr. MCNERNEY, Mr. WELCH, Mr. LUJÁN, Ms. CLARKE of New York, Mr. LOEBSACK, Mr. VEASEY, Mr. MCEACHIN, Mr. SOTO, Mr. O'HALLERAN, Mr. CONNOLLY, Ms. NORTON, and Mr. CRIST) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to clarify the prohibitions on making robocalls, 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 “Stopping Bad
5 Robocalls Act”.

6 **SEC. 2. PROHIBITIONS ON MAKING ROBOCALLS.**

7 (a) IN GENERAL.—Section 227 of the Communica-
8 tions Act of 1934 (47 U.S.C. 227) is amended—

1 (1) in subsection (a), by amending paragraph
2 (1) to read as follows:

3 “(1) The term ‘robocall’ means a call made (in-
4 cluding a text message sent)—

5 “(A) using equipment that makes a series
6 of calls to stored telephone numbers, including
7 numbers stored on a list, or to telephone num-
8 bers produced using a random or sequential
9 number generator, except for a call made using
10 only equipment that the caller demonstrates re-
11 quires substantial additional human interven-
12 tion to dial or place a call after a human initi-
13 ates the series of calls; or

14 “(B) using an artificial or prerecorded
15 voice.”;

16 (2) in subsection (b)—

17 (A) in paragraph (1)—

18 (i) in subparagraph (A)—

19 (I) by striking “any call” and in-
20 serting “any robocall”; and

21 (II) by striking “using any auto-
22 matic telephone dialing system or an
23 artificial or prerecorded voice”;

24 (ii) in subparagraph (B)—

1 (I) by striking “telephone call”
2 and inserting “robocall”; and

3 (II) by striking “using an artifi-
4 cial or prerecorded voice to deliver a
5 message”; and

6 (iii) in subparagraph (D), by striking
7 “use an automatic telephone dialing sys-
8 tem” and inserting “make robocalls”; and

9 (B) in paragraph (2)(A), by striking “calls
10 made using an artificial or prerecorded voice”
11 and inserting “robocalls”;

12 (3) in subsection (d)—

13 (A) in paragraph (1)(A)—

14 (i) by striking “telephone call using
15 any automatic telephone dialing system”
16 and inserting “robocall described in sub-
17 section (a)(1)(A) using any equipment”;
18 and

19 (ii) by striking “or automatic tele-
20 phone dialing system” and inserting “or to
21 make any robocall described in subsection
22 (a)(1)(A)”;

23 (B) in paragraph (3)—

24 (i) in the heading, by inserting
25 “ROBOCALL” after “VOICE”;

1 (ii) in the first sentence, by striking
2 “artificial or prerecorded voice message via
3 telephone” and inserting “robocall de-
4 scribed in subsection (a)(1)(B)”; and

5 (iii) in subparagraph (A), by striking
6 “all artificial or prerecorded telephone
7 messages” and inserting “the artificial or
8 prerecorded voice message contained in
9 any robocall described in such subsection”;
10 and

11 (4) in subsection (f)(1)—

12 (A) by striking subparagraphs (B) and (C)
13 and inserting the following:

14 “(B) the making of robocalls; or”; and

15 (B) by redesignating subparagraph (D) as
16 subparagraph (C).

17 (b) MANNER OF REVOKING PRIOR EXPRESS CON-
18 SENT.—Section 227(b) of the Communications Act of
19 1934 (47 U.S.C. 227(b)) is amended—

20 (1) by redesignating paragraph (3) as para-
21 graph (7); and

22 (2) by inserting after paragraph (2) the fol-
23 lowing:

24 “(3) MANNER OF REVOKING PRIOR EXPRESS
25 CONSENT.—For purposes of this subsection, prior

1 express consent may be revoked at any time and in
2 any reasonable manner, regardless of the context in
3 which consent was provided.”.

4 (c) DEADLINE FOR REGULATIONS.—Not later than
5 1 year after the date of the enactment of this Act, the
6 Federal Communications Commission shall prescribe such
7 regulations, or amend such existing regulations, as nec-
8 essary to implement the amendments made by this section.
9 Such regulations shall include such clarifications regard-
10 ing descriptions of equipment and services as will, in the
11 judgment of the Commission, effectuate the consumer pro-
12 tection purposes of section 227 of the Communications
13 Act of 1934 (47 U.S.C. 227), prevent circumvention or
14 evasion of such section, and facilitate compliance with
15 such section.

16 (d) REPORT TO CONGRESS ON TEXT MESSAGES.—
17 Not later than 60 days after the date of the enactment
18 of this Act, after notice and an opportunity for public com-
19 ment, the Federal Communications Commission shall sub-
20 mit to Congress a report on how best to limit the number
21 of unwanted text messages received by consumers. Such
22 report shall contain recommendations by the Commission,
23 including recommendations for potential legislation.

1 **SEC. 3. CONSUMER PROTECTIONS FOR EXEMPTIONS.**

2 (a) IN GENERAL.—Section 227(b)(2) of the Commu-
3 nications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

4 (1) in subparagraph (G)(ii), by striking “; and”
5 and inserting a semicolon;

6 (2) in subparagraph (H), by striking the period
7 at the end and inserting “; and”; and

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

9 “(I) shall ensure that any exemption under
10 subparagraph (B) or (C) contains requirements
11 for calls made in reliance on the exemption with
12 respect to—

13 “(i) the classes or categories of par-
14 ties that may make such calls;

15 “(ii) the classes or categories of par-
16 ties that may be called;

17 “(iii) the purposes for which such
18 calls may be made;

19 “(iv) the number of such calls that a
20 calling party may make to a particular
21 called party; and

22 “(v) the obligation of the calling
23 party—

24 “(I) to provide the called party
25 with a conspicuous consumer choice
26 mechanism that permits the called

1 party, at any time, to indicate that
2 the called party wishes to stop receiv-
3 ing such calls from the calling party;
4 and

5 “(II) to stop making such calls to
6 the called party if the called party so
7 indicates.”.

8 (b) DEADLINE FOR REGULATIONS.—In the case of
9 any exemption issued under subparagraph (B) or (C) of
10 section 227(b)(2) of the Communications Act of 1934 (47
11 U.S.C. 227(b)(2)) before the date of the enactment of this
12 Act, the Federal Communications Commission, shall, not
13 later than 1 year after such date of enactment, prescribe
14 such regulations, or amend such existing regulations, as
15 necessary to ensure that such exemption meets the re-
16 quirements of subparagraph (I) of such section, as added
17 by subsection (a).

18 **SEC. 4. REASSIGNED NUMBER DATABASE; SAFE HARBOR.**

19 (a) IN GENERAL.—Section 227(b) of the Commu-
20 nications Act of 1934 (47 U.S.C. 227(b)), as amended by
21 section 2(b), is further amended by inserting after para-
22 graph (3) the following:

23 “(4) REASSIGNED NUMBER DATABASE; SAFE
24 HARBOR.—

1 “(A) DATABASE REQUIRED.—The Com-
2 mission shall establish a nationwide database of
3 telephone numbers that have been reassigned in
4 order to provide persons making calls subject to
5 this subsection with the comprehensive and
6 timely information that such persons need to
7 avoid making calls without the prior express
8 consent of the called party because of the reas-
9 signment of the number called to a different
10 party. The Commission shall ensure that infor-
11 mation in the database required by this sub-
12 paragraph is up-to-date.

13 “(B) PROVIDER PARTICIPATION RE-
14 QUIRED.—The Commission shall require each
15 covered provider to report to the database re-
16 quired by subparagraph (A) the reassignment
17 of any telephone number to or from a sub-
18 scriber of such provider.

19 “(C) SAFE HARBOR.—Beginning on the
20 date of the establishment of the database re-
21 quired by subparagraph (A), in the case of a
22 person who makes a call subject to this sub-
23 section to a telephone number that has been re-
24 assigned from a subscriber who had given prior
25 express consent to be called by such person,

1 such person shall not be found in violation of
2 this subsection on the basis of not having the
3 prior express consent of the called party to
4 make such call, if such person shows that—

5 “(i) such person had the prior express
6 consent of such subscriber and such con-
7 sent had not been revoked as of the time
8 of such call;

9 “(ii) such person queried such data-
10 base before making such call, the query did
11 not show such number as being reassigned
12 from such subscriber, and such person
13 made such call within a reasonable period
14 of time (as defined by the Commission)
15 after such query;

16 “(iii) the failure of such query to show
17 such number as being reassigned from
18 such subscriber resulted from an inaccu-
19 racy on the part of—

20 “(I) the Commission or other en-
21 tity administering such database; or

22 “(II) a covered provider in reas-
23 signing such number or in making a
24 report to such database about the re-
25 assignment of such number;

1 “(iv) such person did not otherwise
2 know or have any reason to know that
3 such number had been reassigned from
4 such subscriber;

5 “(v) such call would have complied
6 with the requirements of this subsection
7 but for the lack of the prior express con-
8 sent of the called party; and

9 “(vi) such person—

10 “(I) took affirmative steps to cor-
11 rect the internal records of such per-
12 son with respect to such number; and

13 “(II) reported to such database
14 any inaccuracy that such person dis-
15 covered with respect to such number
16 in such database.

17 “(D) RULE OF CONSTRUCTION.—Nothing
18 in this paragraph shall be construed to preclude
19 the Commission from contracting with a private
20 entity to provide the database required by sub-
21 paragraph (A).

22 “(E) COVERED PROVIDER DEFINED.—In
23 this paragraph, the term ‘covered provider’
24 means a provider of voice service or text mes-

1 saging service (as such terms are defined in
2 subsection (e)(8)).”.

3 (b) CLARIFICATION OF DEFINITION OF CALLED
4 PARTY.—

5 (1) IN GENERAL.—Section 227(a) of the Com-
6 munications Act of 1934 (47 U.S.C. 227(a)) is
7 amended by adding at the end the following:

8 “(6) The term ‘called party’ means, with re-
9 spect to a call, the current subscriber of the tele-
10 phone number to which the call is made, determined
11 at the time when the call is made.”.

12 (2) CONFORMING AMENDMENTS.—Section
13 227(d)(3)(B) of the Communications Act of 1934
14 (47 U.S.C. 227(d)(3)(B)) is amended—

15 (A) by striking “called party’s line” each
16 place it appears and inserting “telephone line
17 called”; and

18 (B) by striking “called party has hung up”
19 and inserting “answering party has hung up”.

20 (c) DEADLINE FOR REGULATIONS AND ESTABLISH-
21 MENT OF DATABASE.—Not later than 1 year after the
22 date of the enactment of this Act, the Federal Commu-
23 nications Commission shall—

24 (1) prescribe regulations to implement the
25 amendments made by this section; and

1 (2) establish the database required by such
2 amendments.

3 (d) **TRANSITIONAL RULE REGARDING DEFINITION**
4 **OF COVERED PROVIDER.**—Subparagraph (E) of para-
5 graph (4) of subsection (b) of section 227 of the Commu-
6 nications Act of 1934 (47 U.S.C. 227), as added by sub-
7 section (a) of this section, shall apply before the effective
8 date of the amendment made to subsection (e)(8) of such
9 section 227 by subparagraph (C) of section 503(a)(2) of
10 division P of the Consolidated Appropriations Act, 2018
11 (Public Law 115–141) as if such amendment was already
12 in effect.

13 **SEC. 5. ENFORCEMENT.**

14 (a) **NO CITATION REQUIRED TO SEEK FORFEITURE**
15 **PENALTY.**—

16 (1) **FOR ROBOCALL VIOLATIONS.**—Section
17 227(b) of the Communications Act of 1934 (47
18 U.S.C. 227(b)), as amended by sections 2(b) and
19 4(a), is further amended by inserting after para-
20 graph (4) the following:

21 “(5) **NO CITATION REQUIRED TO SEEK FOR-**
22 **FEITURE PENALTY.**—Paragraph (5) of section
23 503(b) shall not apply in the case of a violation of
24 this subsection.”.

1 (2) FOR CALLER IDENTIFICATION INFORMA-
2 TION VIOLATIONS.—Section 227(e)(5)(A)(iii) of the
3 Communications Act of 1934 (47 U.S.C.
4 227(e)(5)(A)(iii)) is amended by adding at the end
5 the following: “Paragraph (5) of section 503(b) shall
6 not apply in the case of a violation of this sub-
7 section.”.

8 (b) 4-YEAR STATUTE OF LIMITATIONS.—

9 (1) FOR ROBOCALL VIOLATIONS.—Section
10 227(b) of the Communications Act of 1934 (47
11 U.S.C. 227(b)), as amended by sections 2(b) and
12 4(a) and subsection (a)(1) of this section, is further
13 amended by inserting after paragraph (5) the fol-
14 lowing:

15 “(6) 4-YEAR STATUTE OF LIMITATIONS.—Not-
16 withstanding paragraph (6) of section 503(b), no
17 forfeiture penalty for violation of this subsection
18 shall be determined or imposed against any person
19 if the violation charged occurred more than 4 years
20 prior to the date of issuance of the notice required
21 by paragraph (3) of such section or the notice of ap-
22 parent liability required by paragraph (4) of such
23 section (as the case may be).”.

24 (2) FOR CALLER IDENTIFICATION INFORMA-
25 TION VIOLATIONS.—Section 227(e)(5)(A)(iv) of the

1 Communications Act of 1934 (47 U.S.C.
2 227(e)(5)(A)(iv)) is amended—

3 (A) in the heading, by striking “2-YEAR”
4 and inserting “4-YEAR”; and

5 (B) by striking “2 years” and inserting “4
6 years”.

7 **SEC. 6. ANNUAL REPORT TO CONGRESS.**

8 Section 227 of the Communications Act of 1934 (47
9 U.S.C. 227) is further amended by adding at the end the
10 following:

11 “(i) ANNUAL REPORT TO CONGRESS ON ROBOCALLS
12 AND TRANSMISSION OF MISLEADING OR INACCURATE
13 CALLER IDENTIFICATION INFORMATION.—

14 “(1) REPORT REQUIRED.—Not later than 1
15 year after the date of the enactment of the Stopping
16 Bad Robocalls Act, and annually thereafter, the
17 Commission, after consultation with the Federal
18 Trade Commission, shall submit to Congress a re-
19 port regarding enforcement by the Commission of
20 subsections (b), (d), and (e) during the preceding
21 calendar year.

22 “(2) MATTERS FOR INCLUSION.—Each report
23 required by paragraph (1) shall include the fol-
24 lowing:

1 “(A) The number of complaints received by
2 the Commission during each of the preceding
3 five calendar years, for each of the following
4 categories:

5 “(i) Complaints alleging that a con-
6 sumer received a robocall in violation of
7 subsection (b).

8 “(ii) Complaints alleging that a con-
9 sumer received a robocall in violation of
10 the standards prescribed under subsection
11 (d).

12 “(iii) Complaints alleging that a con-
13 sumer received a call in connection with
14 which misleading or inaccurate caller iden-
15 tification information was transmitted in
16 violation of subsection (e).

17 “(B) The number of citations issued by the
18 Commission pursuant to section 503(b) during
19 the preceding calendar year to enforce sub-
20 section (d), and details of each such citation.

21 “(C) The number of notices of apparent li-
22 ability issued by the Commission pursuant to
23 section 503(b) during the preceding calendar
24 year to enforce subsections (b), (d), and (e),

1 and details of each such notice including the
2 proposed forfeiture amount.

3 “(D) The number of final orders imposing
4 forfeiture penalties issued pursuant to section
5 503(b) during the preceding calendar year to
6 enforce such subsections, and details of each
7 such order including the total forfeiture im-
8 posed.

9 “(E) The amount of forfeiture penalties or
10 criminal fines collected, during the preceding
11 calendar year, by the Commission or the Attor-
12 ney General for violations of such subsections,
13 and details of each case in which such a for-
14 feiture penalty or criminal fine was collected.

15 “(F) Proposals for reducing by half the
16 number of calls made in violation of such sub-
17 sections.

18 “(G) An analysis of the contribution by
19 providers of interconnected VoIP service and
20 non-interconnected VoIP service that discount
21 high-volume, short-duration calls to the total
22 number of robocalls, and recommendations on
23 how to address such contribution in order to de-
24 crease the total number of robocalls.”

1 **SEC. 7. REGULATIONS RELATING TO CALLER IDENTIFICA-**
2 **TION INFORMATION AUTHENTICATION**
3 **STANDARDS.**

4 (a) **IN GENERAL.**—Not later than 1 year after the
5 date of the enactment of this Act, the Commission shall
6 prescribe regulations in WC Docket No. 17–97.

7 (b) **REQUIREMENTS FOR CALLER IDENTIFICATION**
8 **INFORMATION AUTHENTICATION TECHNOLOGY.**—

9 (1) **IN GENERAL.**—The regulations required by
10 subsection (a) shall require providers of voice service
11 to implement, by a date specified by the Commis-
12 sion, caller identification information authentication
13 technology that has the ability to—

14 (A) verify that any caller identification in-
15 formation transmitted in connection with a call
16 (including a call originating outside the United
17 States if the recipient is within the United
18 States) is—

19 (i) accurate; or

20 (ii) exempted under the regulations
21 promulgated under paragraph (3) of sec-
22 tion 227(e) of the Communications Act of
23 1934 (47 U.S.C. 227(e)) from the prohibi-
24 tion under paragraph (1) of such section;
25 and

1 (B) prevent a subscriber from receiving a
2 call unless—

3 (i) any caller identification informa-
4 tion transmitted in connection with such
5 call is verified as described in subpara-
6 graph (A); or

7 (ii) no caller identification information
8 is transmitted in connection with such call,
9 whether because a person has blocked the
10 capability of a caller identification service
11 to transmit such information in accordance
12 with paragraph (2) of section 227(e) of the
13 Communications Act of 1934 (47 U.S.C.
14 227(e)) or otherwise.

15 (2) UNBLOCKING REQUESTS.—Such regulations
16 shall require a provider of voice service to—

17 (A) accept a request from a subscriber of
18 such service, a calling party, or another pro-
19 vider of voice service for the caller identification
20 information authentication technology required
21 under paragraph (1) to allow the completion of
22 a call in connection with which caller identifica-
23 tion information is transmitted but not verified
24 as described in subparagraph (A) of such para-
25 graph; and

1 (B) if such request meets criteria pre-
2 scribed by the Commission in such regulations,
3 grant such request.

4 (3) NO ADDITIONAL COST TO SUBSCRIBERS.—
5 Such regulations shall prohibit providers of voice
6 service from making any additional charge to sub-
7 scribers for the caller identification information au-
8 thentication technology required under paragraph
9 (1).

10 (c) DEFINITIONS.—In this section:

11 (1) CALLER IDENTIFICATION INFORMATION.—
12 The term “caller identification information” has the
13 meaning given such term in section 227(e)(8) of the
14 Communications Act of 1934 (47 U.S.C. 227(e)(8)).

15 (2) CALLER IDENTIFICATION SERVICE.—The
16 term “caller identification service” has the meaning
17 given such term in section 227(e)(8) of the Commu-
18 nications Act of 1934 (47 U.S.C. 227(e)(8)).

19 (3) COMMISSION.—The term “Commission”
20 means the Federal Communications Commission.

21 (4) VOICE SERVICE.—The term “voice service”
22 has the meaning given such term in section
23 227(e)(8) of the Communications Act of 1934 (47
24 U.S.C. 227(e)(8)). This paragraph shall apply before
25 the effective date of the amendment made to such

1 section by subparagraph (C) of section 503(a)(2) of
2 division P of the Consolidated Appropriations Act,
3 2018 (Public Law 115–141) as if such amendment
4 was already in effect.

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