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1ST SESSION

S. 151

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2019

Referred to the Committee on Energy and Commerce

AN ACT

To deter criminal robocall violations and improve enforcement of section 227(b) of the Communications Act of 1934, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Telephone Robocall
3 Abuse Criminal Enforcement and Deterrence Act” or the
4 “TRACED Act”.

5 **SEC. 2. FORFEITURE.**

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

8 (1) in subsection (b), by adding at the end the
9 following:

10 “(4) CIVIL FORFEITURE.—

11 “(A) IN GENERAL.—Any person that is de-
12 termined by the Commission, in accordance
13 with paragraph (3) or (4) of section 503(b), to
14 have violated any provision of this subsection
15 shall be liable to the United States for a for-
16 feiture penalty pursuant to section 503(b)(1).
17 The amount of the forfeiture penalty deter-
18 mined under this subparagraph shall be deter-
19 mined in accordance with subparagraphs (A)
20 through (F) of section 503(b)(2).

21 “(B) VIOLATION WITH INTENT.—Any per-
22 son that is determined by the Commission, in
23 accordance with paragraph (3) or (4) of section
24 503(b), to have violated this subsection with the
25 intent to cause such violation shall be liable to
26 the United States for a forfeiture penalty. The

1 amount of the forfeiture penalty determined
2 under this subparagraph shall be equal to an
3 amount determined in accordance with subpara-
4 graphs (A) through (F) of section 503(b)(2)
5 plus an additional penalty not to exceed
6 \$10,000.

7 “(C) RECOVERY.—Any forfeiture penalty
8 determined under subparagraph (A) or (B)
9 shall be recoverable under section 504(a).

10 “(D) PROCEDURE.—No forfeiture liability
11 shall be determined under subparagraph (A) or
12 (B) against any person unless such person re-
13 ceives the notice required by paragraph (3) or
14 (4) of section 503(b).

15 “(E) STATUTE OF LIMITATIONS.—No for-
16 feiture penalty shall be determined or imposed
17 against any person—

18 “(i) under subparagraph (A) if the
19 violation charged occurred more than 1
20 year prior to the date of issuance of the re-
21 quired notice or notice of apparent liabil-
22 ity; and

23 “(ii) under subparagraph (B) if the
24 violation charged occurred more than 3
25 years prior to the date of issuance of the

1 required notice or notice of apparent liabil-
2 ity.

3 “(F) RULE OF CONSTRUCTION.—Notwith-
4 standing any law to the contrary, the Commis-
5 sion may not determine or impose a forfeiture
6 penalty on a person under both subparagraphs
7 (A) and (B) based on the same conduct.”; and
8 (2) by striking subsection (h) and inserting the
9 following:

10 “(h) TCPA ENFORCEMENT REPORT.—The Commis-
11 sion shall submit an annual report to Congress regarding
12 the enforcement during the preceding year of laws, regula-
13 tions, and policies relating to robocalls and spoofed calls,
14 which report shall include—

15 “(1) the number of complaints received by the
16 Commission during the year alleging that a con-
17 sumer received a robocall or spoofed call;

18 “(2) the number of citations issued by the Com-
19 mission pursuant to section 503 during the year to
20 enforce any law, regulation, or policy relating to a
21 robocall or spoofed call;

22 “(3) the number of notices of apparent liability
23 issued by the Commission pursuant to section 503
24 during the year to enforce any law, regulation, or
25 policy relating to a robocall or spoofed call; and

1 “(4) for each notice referred to in paragraph
2 (3)—

3 “(A) the amount of the proposed forfeiture
4 penalty involved;

5 “(B) the person to whom the notice was
6 issued; and

7 “(C) the status of the proceeding.”.

8 (b) **APPLICABILITY.**—The amendments made by this
9 section shall not affect any action or proceeding com-
10 menced before and pending on the date of enactment of
11 this Act.

12 (c) **DEADLINE FOR REGULATIONS.**—The Federal
13 Communications Commission shall prescribe regulations
14 to implement the amendments made by this section not
15 later than 270 days after the date of enactment of this
16 Act.

17 **SEC. 3. CALL AUTHENTICATION.**

18 (a) **DEFINITIONS.**—In this section:

19 (1) **STIR/SHAKEN AUTHENTICATION FRAME-**
20 **WORK.**—The term “STIR/SHAKEN authentication
21 framework” means the secure telephone identity re-
22 visited and signature-based handling of asserted in-
23 formation using tokens standards proposed by the
24 information and communications technology indus-
25 try.

1 (2) VOICE SERVICE.—The term “voice serv-
2 ice”—

3 (A) means any service that is inter-
4 connected with the public switched telephone
5 network and that furnishes voice communica-
6 tions to an end user using resources from the
7 North American Numbering Plan or any suc-
8 cessor to the North American Numbering Plan
9 adopted by the Commission under section
10 251(e)(1) of the Communications Act of 1934
11 (47 U.S.C. 251(e)(1)); and

12 (B) includes—

13 (i) transmissions from a telephone
14 facsimile machine, computer, or other de-
15 vice to a telephone facsimile machine; and

16 (ii) without limitation, any service
17 that enables real-time, two-way voice com-
18 munications, including any service that re-
19 quires internet protocol-compatible cus-
20 tomer premises equipment (commonly
21 known as “CPE”) and permits out-bound
22 calling, whether or not the service is one-
23 way or two-way voice over internet pro-
24 tocol.

25 (b) AUTHENTICATION FRAMEWORK.—

1 (1) IN GENERAL.—Subject to paragraphs (2)
2 and (3), not later than 18 months after the date of
3 enactment of this Act, the Federal Communications
4 Commission shall require a provider of voice service
5 to implement the STIR/SHAKEN authentication
6 framework in the internet protocol networks of the
7 voice service provider.

8 (2) IMPLEMENTATION.—The Federal Commu-
9 nications Commission shall not take the action de-
10 scribed in paragraph (1) if the Commission deter-
11 mines that a provider of voice service, not later than
12 12 months after the date of enactment of this Act—

13 (A) has adopted the STIR/SHAKEN au-
14 thentication framework for calls on the internet
15 protocol networks of the voice service provider;

16 (B) has agreed voluntarily to participate
17 with other providers of voice service in the
18 STIR/SHAKEN authentication framework;

19 (C) has begun to implement the STIR/
20 SHAKEN authentication framework; and

21 (D) will be capable of fully implementing
22 the STIR/SHAKEN authentication framework
23 not later than 18 months after the date of en-
24 actment of this Act.

1 (3) IMPLEMENTATION REPORT.—Not later than
2 12 months after the date of enactment of this Act,
3 the Federal Communications Commission shall sub-
4 mit to the Committee on Commerce, Science, and
5 Transportation of the Senate and the Committee on
6 Energy and Commerce of the House of Representa-
7 tives a report on the determination required under
8 paragraph (2), which shall include—

9 (A) an analysis of the extent to which pro-
10 viders of a voice service have implemented the
11 STIR/SHAKEN authentication framework, in-
12 cluding whether the availability of necessary
13 equipment and equipment upgrades has im-
14 pacted such implementation; and

15 (B) an assessment of the efficacy of the
16 STIR/SHAKEN authentication framework, as
17 being implemented under this section, in ad-
18 dressing all aspects of call authentication.

19 (4) REVIEW AND REVISION OR REPLACE-
20 MENT.—Not later than 3 years after the date of en-
21 actment of this Act, and every 3 years thereafter,
22 the Federal Communications Commission, after pub-
23 lic notice and an opportunity for comment, shall—

1 (A) assess the efficacy of the call authen-
2 tication framework implemented under this sec-
3 tion;

4 (B) based on the assessment under sub-
5 paragraph (A), revise or replace the call au-
6 thentication framework under this section if the
7 Commission determines it is in the public inter-
8 est to do so; and

9 (C) submit to the Committee on Com-
10 merce, Science, and Transportation of the Sen-
11 ate and the Committee on Energy and Com-
12 merce of the House of Representatives a report
13 on the findings of the assessment under sub-
14 paragraph (A) and on any actions to revise or
15 replace the call authentication framework under
16 subparagraph (B).

17 (5) EXTENSION OF IMPLEMENTATION DEAD-
18 LINE.—The Federal Communications Commission
19 may extend any deadline for the implementation of
20 a call authentication framework required under this
21 section by 12 months or such further amount of
22 time as the Commission determines necessary if the
23 Commission determines that purchasing or upgrad-
24 ing equipment to support call authentication, or lack
25 of availability of such equipment, would constitute a

1 substantial hardship in meeting such deadline for a
2 provider or category of providers of voice service.

3 (c) SAFE HARBOR AND OTHER REGULATIONS.—

4 (1) IN GENERAL.—The Federal Communica-
5 tions Commission shall promulgate rules—

6 (A) establishing when a provider of voice
7 service may block a voice call based, in whole or
8 in part, on information provided by the call au-
9 thentication framework under subsection (b);

10 (B) establishing a safe harbor for a pro-
11 vider of voice service from liability for unin-
12 tended or inadvertent blocking of calls or for
13 the unintended or inadvertent misidentification
14 of the level of trust for individual calls based,
15 in whole or in part, on information provided by
16 the call authentication framework under sub-
17 section (b); and

18 (C) establishing a process to permit a call-
19 ing party adversely affected by the information
20 provided by the call authentication framework
21 under subsection (b) to verify the authenticity
22 of the calling party's calls.

23 (2) CONSIDERATIONS.—In establishing the safe
24 harbor under paragraph (1), the Federal Commu-
25 nications Commission shall consider limiting the li-

1 ability of a provider of voice service based on the ex-
2 tent to which the provider of voice service—

3 (A) blocks or identifies calls based, in
4 whole or in part, on the information provided
5 by the call authentication framework under sub-
6 section (b);

7 (B) implemented procedures based, in
8 whole or in part, on the information provided
9 by the call authentication framework under sub-
10 section (b); and

11 (C) used reasonable care.

12 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
13 tion shall preclude the Federal Communications Commis-
14 sion from initiating a rulemaking pursuant to its existing
15 statutory authority.

16 **SEC. 4. PROTECTIONS FROM SPOOFED CALLS.**

17 (a) **IN GENERAL.**—Not later than 1 year after the
18 date of enactment of this Act, and consistent with the call
19 authentication framework under section 3, the Federal
20 Communications Commission shall initiate a rulemaking
21 to help protect a subscriber from receiving unwanted calls
22 or text messages from a caller using an unauthenticated
23 number.

1 (b) CONSIDERATIONS.—In promulgating rules under
2 subsection (a), the Federal Communications Commission
3 shall consider—

4 (1) the Government Accountability Office report
5 on combating the fraudulent provision of misleading
6 or inaccurate caller identification required by section
7 503(c) of division P of the Consolidated Appropria-
8 tions Act 2018 (Public Law 115–141);

9 (2) the best means of ensuring that a sub-
10 scriber or provider has the ability to block calls from
11 a caller using an unauthenticated North American
12 Numbering Plan number;

13 (3) the impact on the privacy of a subscriber
14 from unauthenticated calls;

15 (4) the effectiveness in verifying the accuracy of
16 caller identification information; and

17 (5) the availability and cost of providing protec-
18 tion from the unwanted calls or text messages de-
19 scribed in subsection (a).

20 **SEC. 5. INTERAGENCY WORKING GROUP.**

21 (a) IN GENERAL.—The Attorney General, in con-
22 sultation with the Chairman of the Federal Communica-
23 tions Commission, shall convene an interagency working
24 group to study Government prosecution of violations of

1 section 227(b) of the Communications Act of 1934 (47
2 U.S.C. 227(b)).

3 (b) DUTIES.—In carrying out the study under sub-
4 section (a), the interagency working group shall—

5 (1) determine whether, and if so how, any Fed-
6 eral laws, including regulations, policies, and prac-
7 tices, or budgetary or jurisdictional constraints in-
8 hibit the prosecution of such violations;

9 (2) identify existing and potential Federal poli-
10 cies and programs that encourage and improve co-
11 ordination among Federal departments and agencies
12 and States, and between States, in the prevention
13 and prosecution of such violations;

14 (3) identify existing and potential international
15 policies and programs that encourage and improve
16 coordination between countries in the prevention and
17 prosecution of such violations; and

18 (4) consider—

19 (A) the benefit and potential sources of ad-
20 ditional resources for the Federal prevention
21 and prosecution of criminal violations of that
22 section;

23 (B) whether to establish memoranda of un-
24 derstanding regarding the prevention and pros-
25 ecution of such violations between—

- 1 (i) the States;
- 2 (ii) the States and the Federal Gov-
3 ernment; and
- 4 (iii) the Federal Government and a
5 foreign government;
- 6 (C) whether to establish a process to allow
7 States to request Federal subpoenas from the
8 Federal Communications Commission;
- 9 (D) whether extending civil enforcement
10 authority to the States would assist in the suc-
11 cessful prevention and prosecution of such vio-
12 lations;
- 13 (E) whether increased forfeiture and im-
14 prisonment penalties are appropriate, such as
15 extending imprisonment for such a violation to
16 a term longer than 2 years;
- 17 (F) whether regulation of any entity that
18 enters into a business arrangement with a com-
19 mon carrier regulated under title II of the Com-
20 munications Act of 1934 (47 U.S.C. 201 et
21 seq.) for the specific purpose of carrying, rout-
22 ing, or transmitting a call that constitutes such
23 a violation would assist in the successful pre-
24 vention and prosecution of such violations; and

1 (G) the extent to which, if any, Depart-
2 ment of Justice policies to pursue the prosecu-
3 tion of violations causing economic harm, phys-
4 ical danger, or erosion of an inhabitant's peace
5 of mind and sense of security inhibits the pre-
6 vention or prosecution of such violations.

7 (c) MEMBERS.—The interagency working group shall
8 be composed of such representatives of Federal depart-
9 ments and agencies as the Attorney General considers ap-
10 propriate, such as—

- 11 (1) the Department of Commerce;
- 12 (2) the Department of State;
- 13 (3) the Department of Homeland Security;
- 14 (4) the Federal Communications Commission;
- 15 (5) the Federal Trade Commission; and
- 16 (6) the Bureau of Consumer Financial Protec-
17 tion.

18 (d) NON-FEDERAL STAKEHOLDERS.—In carrying
19 out the study under subsection (a), the interagency work-
20 ing group shall consult with such non-Federal stake-
21 holders as the Attorney General determines have the rel-
22 evant expertise, including the National Association of At-
23 torneys General.

24 (e) REPORT TO CONGRESS.—Not later than 270 days
25 after the date of enactment of this Act, the interagency

1 working group shall submit to the Committee on Com-
2 merce, Science, and Transportation of the Senate and the
3 Committee on Energy and Commerce of the House of
4 Representatives a report on the findings of the study
5 under subsection (a), including—

6 (1) any recommendations regarding the preven-
7 tion and prosecution of such violations; and

8 (2) a description of what progress, if any, rel-
9 evant Federal departments and agencies have made
10 in implementing the recommendations under para-
11 graph (1).

12 **SEC. 6. ACCESS TO NUMBER RESOURCES.**

13 (a) IN GENERAL.—

14 (1) EXAMINATION OF FCC POLICIES.—Not later
15 than 180 days after the date of enactment of this
16 Act, the Federal Communications Commission shall
17 commence a proceeding to determine whether Fed-
18 eral Communications Commission policies regarding
19 access to number resources, including number re-
20 sources for toll free and non-toll free telephone num-
21 bers, could be modified, including by establishing
22 registration and compliance obligations, to help re-
23 duce access to numbers by potential perpetrators of
24 violations of section 227(b) of the Communications
25 Act of 1934 (47 U.S.C. 227(b)).

1 (2) REGULATIONS.—If the Federal Commu-
2 nications Commission determines under paragraph
3 (1) that modifying the policies described in that
4 paragraph could help achieve the goal described in
5 that paragraph, the Commission shall prescribe reg-
6 ulations to implement those policy modifications.

7 (b) AUTHORITY.—Any person who knowingly,
8 through an employee, agent, officer, or otherwise, directly
9 or indirectly, by or through any means or device whatso-
10 ever, is a party to obtaining number resources, including
11 number resources for toll free and non-toll free telephone
12 numbers, from a common carrier regulated under title II
13 of the Communications Act of 1934 (47 U.S.C. 201 et
14 seq.), in violation of a regulation prescribed under sub-
15 section (a) of this section, shall, notwithstanding section
16 503(b)(5) of the Communications Act of 1934 (47 U.S.C.
17 503(b)(5)), be subject to a forfeiture penalty under section
18 503 of that Act. A forfeiture penalty under this subsection
19 shall be in addition to any other penalty provided for by
20 law.

 Passed the Senate May 23 (legislative day, May 22),
2019.

Attest:

JULIE E. ADAMS,

Secretary.