

111TH CONGRESS
1ST SESSION

S. 30

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

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”.

6 **SEC. 2. PROHIBITION REGARDING MANIPULATION OF**
7 **CALLER IDENTIFICATION INFORMATION.**

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

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

3 (2) by inserting after subsection (d) the fol-
4 lowing new subsection:

5 “(e) PROHIBITION ON PROVISION OF INACCURATE
6 CALLER IDENTIFICATION INFORMATION.—

7 “(1) IN GENERAL.—It shall be unlawful for any
8 person within the United States, in connection with
9 any telecommunications service or IP-enabled voice
10 service, to cause any caller identification service to
11 knowingly transmit misleading or inaccurate caller
12 identification information with the intent to defraud,
13 cause harm, or wrongfully obtain anything of value,
14 unless such transmission is exempted pursuant to
15 paragraph (3)(B).

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

22 “(3) REGULATIONS.—

23 “(A) IN GENERAL.—Not later than 6
24 months after the date of enactment of the
25 Truth in Caller ID Act of 2009, the Commis-

1 sion shall prescribe regulations to implement
2 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 is 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 “(iii) EFFECT ON OTHER LAWS.—
21 Nothing in this subsection shall be con-
22 strued to authorize or prohibit any inves-
23 tigative, protective, or intelligence activities
24 performed in connection with official duties
25 and in accordance with all applicable laws,

1 by a law enforcement agency of the United
2 States, a State, or a political subdivision of
3 a State, or by an intelligence agency of the
4 United States.

5 “(4) REPORT.—Not later than 6 months after
6 the enactment of the Truth in Caller ID Act of
7 2009, the Commission shall report to Congress
8 whether additional legislation is necessary to pro-
9 hibit the provision of inaccurate caller identification
10 information in technologies that are successor or re-
11 placement technologies to telecommunications service
12 or IP-enabled voice service.

13 “(5) PENALTIES.—

14 “(A) CIVIL FORFEITURE.—

15 “(i) IN GENERAL.—Any person that is
16 determined by the Commission, in accord-
17 ance with paragraphs (3) and (4) of sec-
18 tion 503(b), to have violated this sub-
19 section shall be liable to the United States
20 for a forfeiture penalty. A forfeiture pen-
21 alty under this paragraph shall be in addi-
22 tion to any other penalty provided for by
23 this Act. The amount of the forfeiture pen-
24 alty determined under this paragraph shall
25 not exceed \$10,000 for each violation, or 3

1 times that amount for each day of a con-
2 tinuing violation, except that the amount
3 assessed for any continuing violation shall
4 not exceed a total of \$1,000,000 for any
5 single act or failure to act.

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

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

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

21 “(B) CRIMINAL FINE.—Any person who
22 willfully and knowingly violates this subsection
23 shall upon conviction thereof be fined not more
24 than \$10,000 for each violation, or 3 times that
25 amount for each day of a continuing violation,

1 in lieu of the fine provided by section 501 for
2 such a violation. This subparagraph does not
3 supersede the provisions of section 501 relating
4 to imprisonment or the imposition of a penalty
5 of both fine and imprisonment.

6 “(6) ENFORCEMENT BY STATES.—

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

21 “(B) NOTICE.—The chief legal officer or
22 other State officer shall serve written notice on
23 the Commission of any civil action under sub-
24 paragraph (A) prior to initiating such civil ac-
25 tion. The notice shall include a copy of the com-

1 plaint to be filed to initiate such civil action, ex-
 2 cept that if it is not feasible for the State to
 3 provide such prior notice, the State shall pro-
 4 vide such notice immediately upon instituting
 5 such civil action.

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

9 “(i) to intervene in the action;

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

12 “(iii) to file petitions for appeal.

13 “(D) CONSTRUCTION.—For purposes of
 14 bringing any civil action under subparagraph
 15 (A), nothing in this paragraph shall prevent the
 16 chief legal officer or other State officer from ex-
 17 ercising the powers conferred on that officer by
 18 the laws of such State to conduct investigations
 19 or to administer oaths or affirmations or to
 20 compel the attendance of witnesses or the pro-
 21 duction of documentary and other evidence.

22 “(E) VENUE; SERVICE OR PROCESS.—

23 “(i) VENUE.—An action brought
 24 under subparagraph (A) shall be brought
 25 in a district court of the United States

1 that meets applicable requirements relating
2 to venue under section 1391 of title 28,
3 United States Code.

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

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

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

15 “(7) DEFINITIONS.—For purposes of this sub-
16 section:

17 “(A) CALLER IDENTIFICATION INFORMA-
18 TION.—The term ‘caller identification informa-
19 tion’ means information provided by a caller
20 identification service regarding the telephone
21 number of, or other information regarding the
22 origination of, a call made using a telecommuni-
23 cations service or IP-enabled voice service.

24 “(B) CALLER IDENTIFICATION SERVICE.—
25 The term ‘caller identification service’ means

1 any service or device designed to provide the
2 user of the service or device with the telephone
3 number of, or other information regarding the
4 origination of, a call made using a telecommuni-
5 cations service or IP-enabled voice service. Such
6 term includes automatic number identification
7 services.

8 “(C) IP-ENABLED VOICE SERVICE.—The
9 term ‘IP-enabled voice service’ has the meaning
10 given that term by section 9.3 of the Commis-
11 sion’s regulations (47 C.F.R. 9.3), as those reg-
12 ulations may be amended by the Commission
13 from time to time.

14 “(8) LIMITATION.—Notwithstanding any other
15 provision of this section, subsection (f) shall not
16 apply to this subsection or to the regulations under
17 this subsection.”.

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