H. R. 3035

To amend the Communications Act of 1934 to permit informational calls to mobile telephone numbers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2011

Mr. TERRY (for himself and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to permit informational calls to mobile telephone numbers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mobile Informational Call Act of 2011”.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—Section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended—

(1) by amending paragraph (1) to read as follows:
“(1) The term ‘automatic telephone dialing sys-

tem’ means equipment which uses a random or se-
quential number generator to produce telephone
numbers to be called and to dial such numbers.”;

(2) in paragraph (2)—

(A) by striking “subsection (b)(1)(C)(i)”

and inserting “paragraph (3) and subsection
(b)(1)(C)(i)”;

(B) in subparagraph (A), by striking “;

and” and inserting a semicolon;

(C) in subparagraph (B), by striking

“paragraph (2)(G)).” and inserting “subsection
(b)(2)(G); and”; and

(D) by adding at the end the following:

“(C) this paragraph shall not apply for

purposes of determining whether an established
business relationship exists for purposes of
prior express consent to a call that is a tele-
phone solicitation.”;

(3) by redesignating paragraphs (3) through

(5) as paragraphs (4) through (6), respectively; and

(4) by inserting after paragraph (2) the fol-

lowing:

“(3) The term ‘prior express consent’ means

the oral or written approval of a person—
“(A) for the initiation of a telephone call to such person by or on behalf of an entity with which such person has an established business relationship; and

“(B) that is provided when such person purchases a good or service or at any other point during such relationship.

A person who provides a telephone number as a means of contact evidences consent under this paragraph.”.

(b) CONFORMING AMENDMENT.—Section 227(c)(1)(D) of the Communications Act of 1934 (47 U.S.C. 227(c)(1)(D)) is amended by striking “subsection (a)(3)” and inserting “subsection (a)(5)”.

SEC. 3. INFORMATIONAL CALLS TO MOBILE TELEPHONE NUMBERS.

(a) IN GENERAL.—Section 227(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)(A)) is amended to read as follows:

“(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—
“(i) to any emergency telephone line
(including any ‘911’ line and any emer-
gency line of a hospital, medical physician
or service office, health care facility, poison
control center, or fire protection or law en-
f orcement agency);

“(ii) to the telephone line of any guest
room or patient room of a hospital, health
care facility, elderly home, or similar estab-
lishment;

“(iii) to any telephone number as-
signed to a paging service; or

“(iv) to any telephone number as-
signed to a cellular telephone service, spe-
cialized mobile radio service, or other radio
common carrier service, or any service for
which the called party is charged for the
call, unless the call is made for a commer-
cial purpose that does not constitute a tele-
phone solicitation;”.

(b) CONFORMING AMENDMENT.—Section
227(b)(2)(C) of the Communications Act of 1934 (47
U.S.C. 227(b)(2)(C)) is amended by striking “paragraph
(1)(A)(iii)” and inserting “paragraph (1)(A)(iv)”.

•HR 3035 IH
(c) TECHNICAL CORRECTION.—Section 227(b)(1) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)) is amended by striking “It shall” and all that follows through “United States—” and inserting the following: “It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—”.

SEC. 4. EFFECT ON STATE LAW.

Section 227(f)(1) of the Communications Act of 1934 (47 U.S.C. 227(f)(1)) is amended to read as follows:

“(1) IN GENERAL.—No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under this section, except for telephone solicitations.”.