

TRUTH IN CALLER ID ACT OF 2006

JUNE 6, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BARTON of Texas, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 5126]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 5126) to amend the Communications Act of 1934 to prohibit manipulation of caller identification information, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:
 Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Truth in Caller ID Act of 2006”.

SEC. 2. PROHIBITION REGARDING MANIPULATION OF CALLER IDENTIFICATION INFORMATION.

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

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

(2) by inserting after subsection (d) the following new subsection:

“(e) PROHIBITION ON PROVISION OF DECEPTIVE CALLER IDENTIFICATION INFORMATION.—

“(1) IN GENERAL.—It shall be unlawful for any person within the United States, in connection with any telecommunications service or VOIP service, to cause any caller identification service to transmit misleading or inaccurate caller identification information, with the intent to defraud or cause harm.

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

“(3) REGULATIONS.—Not later than 6 months after the enactment of this subsection, the Commission shall prescribe regulations to implement this subsection.

“(4) DEFINITIONS.—For purposes of this subsection:

“(A) CALLER IDENTIFICATION INFORMATION.—The term ‘caller identification information’ means information provided to an end user by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or VOIP service.

“(B) CALLER IDENTIFICATION SERVICE.—The term ‘caller identification service’ means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or VOIP service. Such term includes automatic number identification services.

“(C) VOIP SERVICE.—The term ‘VOIP service’ means a service that—

“(i) provides real-time voice communications transmitted through end user equipment using TCP/IP protocol, or a successor protocol, for a fee or without a fee;

“(ii) is offered to the public, or such classes of users as to be effectively available to the public (whether part of a bundle of services or separately); and

“(iii) has the capability to originate traffic to, and terminate traffic from, the public switched telephone network.

“(5) SAVINGS PROVISION.—Nothing in this Act may be construed to affect or alter the application of the Commission’s regulations regarding the requirements for transmission of caller identification information for telemarketing calls, issued pursuant to the Telephone Consumer Protection Act of 1991 (Public Law 102–243) and the amendments made by such Act.”.

PURPOSE AND SUMMARY

The purpose of H.R. 5126, the “Truth in Caller ID Act of 2006” is to prohibit the manipulation of caller identification information with the intent to defraud or cause harm.

BACKGROUND AND NEED FOR LEGISLATION

Most companies that offer telecommunications and Voice over Internet-Protocol (VOIP) services also offer their customers caller identification (caller ID) service that provides to the consumer the telephone number of the incoming call and the name of the subscriber to such number. Unfortunately, increasingly there are callers who are misleading citizens with incorrect caller ID information. This practice is known as caller ID “spoofing” and occurs when a caller masquerades as someone else by falsifying the name or number that appears on the recipient’s caller ID display.

Caller ID spoofing can make a call appear to come from any phone number the caller wishes. For instance, the American Association of Retired Persons issued a “scam alert” when someone posing to be a courthouse employee called a Sterling, Michigan woman claiming that she had missed jury duty that week. The caller threatened that a warrant was being issued for her arrest and then asked her to confirm her Social Security number, to verify her identity. This scam appeared even more real when the con artist used a caller ID “spoofing” product which allowed the con to display the name and number of the courthouse on the caller ID box.

Today, caller ID works through the use of Signalling System 7 (SS7), which is the standard for connecting phone companies’ networks world-wide. SS7 allows the caller’s exchange to send a Calling Party Number (CPN), which includes the number of the caller and whether or not the caller wants their number to be blocked. By Federal Communications Commission (FCC or Commission) regulation, when a telecommunications carrier uses SS7 to set up a call, it must transmit the CPN and its associated privacy indicator for that call to the connecting carrier. By regulation, consumers also have the right to conceal their CPN by dialing *67.

VOIP networks are not currently subject to the same caller ID Commission regulations that apply to traditional telephony. The Commission has not set a standard way for VOIP providers to handle the transmission of caller ID information to a called party. Additionally, VOIP services give the calling party far more control over the content and transmission of caller ID. VOIP customers are able to control the features of their phone service through their web settings. Some VOIP companies offer customers the ability to change the caller ID information that is distributed when a call is made. Other VOIP companies restrict or block the ability of their customers to change the calling party’s phone number.

It has been possible for a number of years to “spoo” or manipulate caller ID, although it required specific phone connections and expensive equipment. Today, however, with advances in technology and the advent of VOIP, it has become easier for callers to transmit any caller ID information the calling party chooses. Moreover, there are a number of online websites that offer spoofing services, eliminating the need for any specialized hardware. Not only do these services mask the correct caller ID information, but many offer voice scrambling services which can make the caller sound like someone of the opposite sex. The Commission recently initiated an investigation of these online websites that offer caller ID spoofing services. That investigation is ongoing.

Although these caller ID spoofing services promote themselves for use in “prank calls” or for “entertainment purposes only,” such services can be easily accessed and used by criminals and identity thieves, or others who wish to harm or deceive someone. Additionally, many business functions, from credit card verification to automatic call routing, opt to use caller ID for security purposes, which spoofing can render useless.

There are, however, legitimate reasons to alter caller ID information. For example, the Committee received a letter from the National Network to End Domestic Violence which explained that many phones are set to refuse blocked or private calls. It therefore becomes important for domestic violence shelters to transmit caller

ID information so a call is completed, but it may be necessary to alter the caller ID information to ensure the safety of the domestic violence victims.

Although there are specific caller ID rules that govern how telemarketers may transmit caller ID information, under current FCC regulations, there is no broad mandate that all callers transmit accurate caller ID information. In fact, there is nothing that prohibits the deceptive manipulation of caller ID. H.R. 5126, the “Truth in Caller ID Act of 2006” remedies this problem.

HEARINGS

The Subcommittee on Telecommunications and the Internet held a hearing on H.R. 5126, the “Truth in Caller ID Act of 2006” on May 18, 2006. The Subcommittee received testimony from: Mr. Tom Navin, Wireline Bureau Chief, Federal Communications Commission; Ms. Staci Pies, Vice President, PointOne Communications, on behalf of Voice on the Net (VON) Coalition; Mr. Lance James, Chief Technology Officer, Secure Science Corporation; and Mr. Marc Rotenberg, Executive Director, Electronic Privacy Information Center.

COMMITTEE CONSIDERATION

On Wednesday, May 24, 2006, the Committee on Energy and Commerce met in open markup session and ordered H.R. 5126 reported to the House, amended, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 5126, the “Truth in Caller ID Act of 2006” reported. A motion by Mr. Barton to order H.R. 5126 reported to the House, amended, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of the H.R. 5126, the “Truth in Caller ID Act of 2006” is to prohibit the manipulation of caller identification information with the intent to defraud or cause harm.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5126, the “Truth in Caller ID Act of 2006”, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 5126—Truth in Caller ID Act of 2006

Summary: H.R. 5126 would amend the Communications Act of 1934 to prohibit the manipulation of caller identification services (Caller ID) to transmit misleading or inaccurate caller identification information with the intent to defraud or cause harm through any traditional telephone or voice over Internet protocol (VOIP) service. Caller ID services allow consumers to see the names and telephone numbers of incoming calls. The Federal Communications Commission (FCC) also would be directed to promulgate regulations and implement the bill's provisions.

Assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost the FCC less than \$500,000 in 2006 and about \$5 million over the 2007–2011 period. Enacting the bill also would affect federal revenues by increasing collections of fines and penalties, but CBO estimates that any such increase would not be significant.

H.R. 5126 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5126 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated authorization level	*	1	1	1	1	1
Estimated outlays	*	1	1	1	1	1

NOTE: * = Less than \$500,000.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted in 2006 and that spending will follow historical patterns for similar FCC programs.

Based on information from the FCC and subject to the availability of appropriated funds, CBO estimates that implementing the bill would cost less than \$500,000 in 2006 and \$1 million annually in each subsequent year for the FCC to issue new regulations and to enforce the new regulations.

Enacting the bill would likely increase federal revenues as a result of the collection of additional civil penalties assessed for violations of the new law and regulations. Collections of civil penalties are recorded in the budget as revenues. CBO estimates, however,

that any additional revenues that would result from enacting the bill would not be significant because of the relatively small number of cases likely to be involved.

Intergovernmental and private-sector impact: H.R. 5126 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Matthew Pickford; impact on state, local, and tribal Governments: Sarah Puro; impact on the private sector: Fatimot Ladipo.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates the short title of the bill as the “Truth in Caller ID Act of 2006.”

Section 2. Prohibition regarding manipulation of caller identification information

Section 2 adds a new subsection (e) to Section 227 of the Communications Act of 1934. New subsection (e)(1) makes it unlawful for any person within the United States, in connection with any telecommunications service or VOIP service, to cause any caller ID service to transmit misleading or inaccurate caller identification information with the intent to defraud or cause harm. The term “fraud” is defined at common law to mean an intentional misrepresentation of material existing fact made by one person to another with knowledge of its falsity and for the purpose of inducing the other person to act, and upon which the other person relies with resulting injury or damage.

The Committee notes the inclusion of the “intent to defraud or cause harm” language is intended to prohibit the misuse of caller ID technology for harmful impersonation. Such language is included in the section to ensure that Congress does not inadvertently prohibit the conduct of an individual or an entity who is not intending to defraud or harm the recipient of a call, but instead may be protecting privileged communication or ensuring the safety of an individual. For example, a domestic violence shelter may alter caller ID information in order to return a call to a victim in a way that will protect the shelter’s confidential location and not alert the victim’s abuser that she has contacted a shelter program. Because the shelter in this example is not intending to defraud or harm the recipient of the call, the shelter would not be in violation of the section.

Further, the Committee intends that “the intent to defraud or cause harm” standard set out in section 227(e)(1) includes all types of harm that may result from such caller ID “spoofing,” including financial, physical, and emotional harm.

Commission regulations currently provide that any caller shall be able to block their caller ID information from reaching the end user. New subsection (e)(2) is designed to ensure that nothing in this bill prevents or restricts any person from blocking the capability of any caller identification service to transmit caller identification information.

New subsection (e)(3) requires the FCC to complete regulations within six months of enactment to implement the Act.

New subsection (e)(4) contains the definitions of “caller identification information”, “caller identification service”, and “VOIP service.”

New subsection (e)(5) is a savings clause stating that nothing in this Act is intended to affect or alter the application of the Commission’s requirement for transmission of caller ID information for telemarketing calls. Pursuant to the Telephone Consumer Protection Act of 1991 (P.L. 102–243), the Commission adopted regulations requiring telemarketers to transmit caller ID information. The Commission also stated that any number supplied must permit an individual to make a do-not-call request during regular business hours for the duration of the telemarketing campaign. Under these regulations, telemarketers may transmit the caller ID information of the client for whom they are calling. Nothing in H.R. 5126 is intended to change the application of those rules.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 227 OF THE COMMUNICATIONS ACT OF 1934

SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

(a) * * *

* * * * *

(e) *PROHIBITION ON PROVISION OF DECEPTIVE CALLER IDENTIFICATION INFORMATION.*—

(1) *IN GENERAL.*—*It shall be unlawful for any person within the United States, in connection with any telecommunications service or VOIP service, to cause any caller identification service to transmit misleading or inaccurate caller identification information, with the intent to defraud or cause harm.*

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

(3) *REGULATIONS.*—*Not later than 6 months after the enactment of this subsection, the Commission shall prescribe regulations to implement this subsection.*

(4) *DEFINITIONS.*—*For purposes of this subsection:*

(A) *CALLER IDENTIFICATION INFORMATION.*—*The term “caller identification information” means information provided to an end user by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or VOIP service.*

(B) *CALLER IDENTIFICATION SERVICE.*—*The term “caller identification service” means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or VOIP service. Such term includes automatic number identification services.*

(C) *VOIP SERVICE.*—*The term “VOIP service” means a service that—*

(i) provides real-time voice communications transmitted through end user equipment using TCP/IP protocol, or a successor protocol, for a fee or without a fee;

(ii) is offered to the public, or such classes of users as to be effectively available to the public (whether part of a bundle of services or separately); and

(iii) has the capability to originate traffic to, and terminate traffic from, the public switched telephone network.

(5) *SAVINGS PROVISION.*—*Nothing in this Act may be construed to affect or alter the application of the Commission’s regulations regarding the requirements for transmission of caller identification information for telemarketing calls, issued pursuant to the Telephone Consumer Protection Act of 1991 (Public Law 102–243) and the amendments made by such Act.*

[(e)] (f) *EFFECT ON STATE LAW.*—

(1) * * *

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[(f)] (g) *ACTIONS BY STATES.*—

(1) * * *

* * * * *

[(g)] (h) *JUNK FAX ENFORCEMENT REPORT.*—*The Commission shall submit an annual report to Congress regarding the enforce-*

ment during the past year of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which report shall include—

(1) * * *

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