

105TH CONGRESS
1ST SESSION

H. R. 2120

To amend the Communications Act of 1934 to strengthen and expand the procedures for preventing the slamming of interstate telephone service subscribers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 1997

Mr. DEFAZIO (for himself, Ms. DEGETTE, Mr. FRANKS of New Jersey, Mr. FRANK of Massachusetts, Mr. SHAYS, Mr. BLUMENAUER, and Mr. SMITH of Oregon) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Communications Act of 1934 to strengthen and expand the procedures for preventing the slamming of interstate telephone service subscribers, 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 “Telephone Consumer
5 Slamming Prevention Act of 1997”.

1 **SEC. 2. LONG DISTANCE SLAMMING PROHIBITION.**

2 Section 258 of the Communications Act of 1934 (47
3 U.S.C. 258) is amended—

4 (1) in the first sentence of subsection (a), by in-
5 serting “the requirements of this section and” after
6 “in accordance with”; and

7 (2) by adding at the end the following new sub-
8 sections:

9 “(c) VERIFICATION PROCEDURES REQUIRED WITH
10 RESPECT TO SUBSCRIBER SELECTIONS OF INTERSTATE
11 CARRIER.—

12 “(1) WRITTEN CARRIER SELECTIONS RE-
13 QUIRED.—No telecommunications carrier shall sub-
14 mit or execute a change in a subscriber’s selection
15 of a provider of interstate telephone service unless
16 the carrier to which the subscriber will be changed
17 (or such carrier’s agent) has obtained from the sub-
18 scriber a written change authorization that—

19 “(A) clearly and simply describes the na-
20 ture of the subscription change;

21 “(B) is signed and dated by the subscriber;

22 “(C) is solicited in accordance with the re-
23 quirements of paragraph (2); and

24 “(D) is in a form (including typeface and
25 language used) that is prescribed or approved
26 by the Commission.

1 “(2) SOLICITATION PROCEDURES.—A written
2 change authorization shall—

3 “(A) not (i) be a part of, or attached to,
4 any other document, (ii) be included together
5 with any billing for telephone service, (iii) con-
6 tain any promotional offer or inducement; or
7 (iv) represent that endorsement entitles the
8 subscriber to any benefit other than the change
9 in carrier selection; and

10 “(B) be provided to the subscriber in du-
11 plicate, and permit the subscriber to retain the
12 duplicate.

13 “(d) LIABILITY TO SUBSCRIBERS FOR UNAUTHOR-
14 IZED CHANGES OF INTERSTATE TELEPHONE SERVICE.—
15 Any telecommunications carrier that violates the require-
16 ments of subsection (c) shall be liable to the subscriber
17 in an amount equal to the sum of the following charges:

18 “(1) SWITCHING FEES.—Any fees imposed for
19 changing the subscriber’s service to or from the un-
20 authorized carrier.

21 “(2) LONG DISTANCE CHARGES.—Any charges
22 for interstate telephone service used by the sub-
23 scriber during the period that begins upon the occur-
24 rence of the unauthorized change in service that con-
25 stituted the violation and ends upon the earlier of

1 (A) the date that the service of the subscriber is
 2 changed from the unauthorized carrier pursuant to
 3 a valid change authorization under subsection (c), or
 4 (B) the expiration of the 6-month period beginning
 5 on the date of the unauthorized change in service.

6 “(e) ADMINISTRATION OF SLAMMING COMPLAINT
 7 SYSTEM.—

8 “(1) STATE OPTION TO ADMINISTER.—

9 “(A) IN GENERAL.—If a State has made a
 10 certification under subparagraph (B) to the
 11 Commission (and has not thereafter terminated
 12 the effectiveness of such certification), the State
 13 commission for such State shall administer a
 14 slamming complaint system for subscribers of
 15 interstate telephone service in such State that
 16 meets the requirements pursuant to subsection
 17 (f).

18 “(B) CERTIFICATION REQUIREMENTS.—A
 19 certification under this subparagraph for a
 20 State is a certification by the State commission
 21 for the State , submitted to the Commission in
 22 the form and manner prescribed by the Com-
 23 mission, that the State commission has estab-
 24 lished and will maintain a slamming complaint
 25 system for the State that meets the require-

1 ments pursuant to subsection (f). A certifi-
2 cation shall be effective for purposes of this
3 subsection upon submission to the Commission,
4 notwithstanding any review or approval by the
5 Commission. The Commission may prescribe
6 the form and manner for States to terminate
7 the effectiveness of such certifications.

8 “(2) ADMINISTRATION BY COMMISSION.—The
9 Commission shall, for each State not described in
10 paragraph (1)(A), maintain and administer a slam-
11 ming complaint system for subscribers of interstate
12 telephone service in such State that meets the re-
13 quirements pursuant to subsection (f).

14 “(f) SLAMMING COMPLAINT SYSTEM REQUIRE-
15 MENTS.—A slamming complaint system for a State meets
16 the requirements pursuant to this subsection if the sys-
17 tem—

18 “(1) makes available a procedure for any sub-
19 scriber of interstate telephone service in such State
20 to register a complaint that the subscriber’s selection
21 of a provider of such service has been changed with-
22 out the written authorization of the subscriber re-
23 quired under subsection (c), and maintains a record
24 of such complaint;

1 “(2) with respect to each such complaint, pro-
2 vides for the determination (in such manner as the
3 Commission shall provide) of whether a violation of
4 the requirement under subsection (c) occurred and
5 of liability under subsection (d);

6 “(3) maintains a record of each determination
7 of a violation of the requirement under subsection
8 (c) involving a subscriber of interstate telephone
9 service in the State, including the telecommuni-
10 cations carrier to which interstate telephone service
11 was illegally changed;

12 “(4) on a monthly basis—

13 “(A) determines, for each telecommuni-
14 cations carrier providing interstate telephone
15 service within the State, the number of such
16 violations determined to have occurred involving
17 the illegal change of service to such carrier; and

18 “(B) in the case only of a system adminis-
19 tered by a State commission pursuant to sub-
20 section (e)(1), provides the information under
21 subparagraph (A) to the Commission; and

22 “(5) complies with any regulations as the Com-
23 mission may prescribe to carry out this subsection.

24 “(g) NOTICE TO SUBSCRIBERS OF AVAILABILITY OF
25 SLAMMING COMPLAINT SYSTEM.—The Commission shall

1 require each telecommunications carrier providing inter-
2 state telephone service (or the billing agent for such car-
3 rier) to include, in each subscriber's phone bill for such
4 service, a statement—

5 “(1) informing the subscriber that a complaint
6 regarding an unauthorized change in the subscrib-
7 er's selection of a provider of such service may be
8 registered under the applicable slamming complaint
9 system for the State of the subscriber;

10 “(2) providing a phone number for contacting
11 such slamming complaint system; and

12 “(3) providing the location of the carrier's prin-
13 cipal office (including the street address, city, State
14 or province (or other region), country, and zip or
15 postal code).

16 “(h) PERFORMANCE LIMITS.—

17 “(1) ESTABLISHMENT BY COMMISSION.—Not
18 later than one year after the date of enactment of
19 this subsection, the Commission shall conduct a
20 study of the number and rates of incidence of
21 changes in subscribers' selections of providers of
22 interstate telephone service occurring without the
23 authorization of the subscriber. Pursuant to the
24 study, the Commission shall establish performance
25 limits that are the maximum acceptable rates of un-

1 authorized changes. The Commission may, from
2 time to time, review and adjust the performance lim-
3 its established under this paragraph.

4 “(2) COMPARISON OF NUMBER OF VIOLATIONS
5 TO PERFORMANCE LIMITS.—After the establishment
6 of the performance limits under paragraph (1), the
7 Commission shall compare the information for each
8 month for each telecommunications carrier providing
9 interstate telephone service within each State that is
10 submitted by State commissions (pursuant to sub-
11 section (f)(4)(B)) and collected by the Commission
12 (pursuant to subsection (f)(4)(A) for States to which
13 subsection (e)(2) applies) to the applicable perform-
14 ance limit established under paragraph (1).

15 “(i) FORFEITURE PENALTY FOR EXCEEDING PER-
16 FORMANCE LIMIT.—

17 “(1) IN GENERAL.—If the Commission deter-
18 mines that, for any month, for any single tele-
19 communications carrier, the number of violations of
20 the requirements under subsection (c) determined to
21 have occurred which involve changing the interstate
22 telephone service of subscribers of interstate tele-
23 phone service in a State to such carrier exceeds the
24 applicable performance limit for such State estab-
25 lished under subsection (h)(1), such carrier shall be

1 considered to have willfully failed to comply with this
2 Act and shall be liable to the United States for a
3 forfeiture penalty under section 503(b)(1)(B).

4 “(2) CONSIDERATIONS IN DETERMINING
5 AMOUNT OF PENALTY.—In taking into account the
6 extent and gravity of a violation under paragraph
7 (1) for purposes of determining the amount of the
8 forfeiture penalty pursuant to section 503(b)(2)(D),
9 the Commission shall consider—

10 “(A) the number of violations of the re-
11 quirements of subsection (c) determined to have
12 occurred in excess of the number of violations
13 necessary to exceed the applicable performance
14 limit; and

15 “(B) the ratio of the number of violations
16 determined to have occurred to the number of
17 violations necessary to exceed the applicable
18 performance limit.

19 “(j) EFFECT ON OTHER LAW.—

20 “(1) CONSUMER PROTECTION LAWS.—Nothing
21 in this section shall relieve any telecommunications
22 carrier, local exchange carrier, or any other person
23 from the obligation to comply with any Federal,
24 State, or local statute or regulation relating to
25 consumer protection or unfair trade.

1 “(2) STATE AUTHORITY.—Nothing in this sec-
2 tion shall preclude any State from enacting and en-
3 forcing additional and complementary oversight and
4 regulatory systems or procedures, or both, so long as
5 such systems and procedures do not significantly im-
6 pede the enforcement of this section or other Fed-
7 eral statutes.”.

8 **SEC. 3. LIMITATION OF EXISTING SLAMMING LIABILITY**
9 **PROVISION TO INTRASTATE SERVICE.**

10 Section 258(b) of the Communications Act of 1934
11 (47 U.S.C. 258(b)) is amended by striking “described in
12 subsection (a)” and inserting “prescribed pursuant to sub-
13 section (a) for changing a subscriber’s selection of a pro-
14 vider of intrastate telephone service” after “subsection
15 (a)”.

16 **SEC. 4. EFFECTIVE DATE AND REGULATIONS.**

17 (a) EFFECTIVE DATE.—The amendments made by
18 this Act shall take effect upon the expiration of the 12-
19 month period beginning on the date of the enactment of
20 this Act.

21 (b) REGULATIONS.—The Commission shall prescribe
22 such regulations as may be necessary to carry out the
23 amendments made by this Act, which shall include pre-
24 scribing a standard form for written change authorizations
25 that meets the requirements of section 258(c) of the Com-

1 munications Act of 1934 (as added by section 2 of this
2 Act) for use for such purpose. Such final regulations shall
3 be issued and shall take effect not later than the effective
4 date under subsection (a).

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