

105TH CONGRESS
1ST SESSION

S. 489

To improve the criminal law relating to fraud against consumers.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 1997

Mr. KYL (for himself and Mr. REID) introduced the following bill; which was
read twice and referred to the Committee on the Judiciary

A BILL

To improve the criminal law relating to fraud against
consumers.

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 “Telemarketing Fraud
5 Prevention Act of 1997”.

6 **SEC. 2. FORFEITURE OF FRAUD PROCEEDS.**

7 (a) CIVIL.—Section 981(a)(1) of title 18, United
8 States Code, is amended by adding at the end the follow-
9 ing:

10 “(G)(i) Any property, real or personal, con-
11 stituting, derived from, or traceable to, any proceeds

1 obtained directly or indirectly to a violation of sec-
2 tion 2326.

3 “(ii) Notwithstanding any other provision of
4 law, any property forfeited under this subparagraph,
5 or the proceeds of such property, shall be used, to
6 the extent needed, as determined by the Attorney
7 General—

8 “(I) for the national information hotline
9 established under section 250008 of the Violent
10 Crime Control and Law Enforcement Act of
11 1994 (18 U.S.C. 2325 note); and

12 “(II) to enforce section 2326.”.

13 (b) CRIMINAL.—Section 982(a) of title 18, United
14 States Code, is amended—

15 (1) by redesignating the second paragraph des-
16 ignated as paragraph (6) (as added by section 249
17 of the Health Insurance Portability and Accountabil-
18 ity Act of 1996) as paragraph (7); and

19 (2) by adding at the end the following:

20 “(8)(A) The Court, in sentencing an offender under
21 section 2326, shall order that the offender forfeit to the
22 United States any real or personal property constituting
23 of or derived from proceeds that the offender obtained di-
24 rectly or indirectly as a result of the offense.

1 “(B) Any property forfeited under this paragraph, or
 2 the proceeds of such property, shall be used, to the extent
 3 necessary, as determined by the Attorney General—

4 “(i) for the national information hotline estab-
 5 lished under section 250008 of the Violent Crime
 6 Control and Law Enforcement Act of 1994 (18
 7 U.S.C. 2325 note); and

8 “(ii) to enforce section 2326.”.

9 **SEC. 3. PRIORITY FOR MANDATORY RESTITUTION.**

10 Section 2327(a) of title 18, United States Code, is
 11 amended by adding at the end the following: “The pay-
 12 ment of an amount due pursuant to such restitution shall
 13 have priority over the payment of any fine or the forfeiture
 14 of any property under section 982(a)(6) from which such
 15 payment could be made or derived.”.

16 **SEC. 4. SENTENCING IN CASES WITH VULNERABLE VIC-**
 17 **TIMS.**

18 The United States Sentencing Commission shall
 19 amend the sentencing guidelines to increase by 2 levels
 20 the vulnerable victim adjustment.

21 **SEC. 5. INCREASED PUNISHMENT FOR USE OF FOREIGN**
 22 **LOCATION TO EVADE PROSECUTION.**

23 The United States Sentencing Commission shall
 24 amend the sentencing guidelines to increase the offense
 25 level for any fraud offense by 2 levels if defendant con-

1 ducted activities to further the fraud from a foreign coun-
2 try in order to impede prosecution for the offense.

3 **SEC. 6. INFORMATION ABOUT VICTIMS OF CERTAIN**
4 **CRIMES.**

5 Any presentence report required under the Federal
6 Rules of Criminal Procedure shall include information
7 about the age of each victim of each fraud offense for
8 which a defendant is convicted.

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