

106TH CONGRESS
1ST SESSION

S. 1850

To amend section 222 of the Communications Act of 1934 to modify the requirements relating to the use and disclosure of customer proprietary network information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 1999

Mr. EDWARDS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend section 222 of the Communications Act of 1934 to modify the requirements relating to the use and disclosure of customer proprietary network information, 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 Call Privacy
5 Act of 1999”.

1 **SEC. 2. MODIFICATION OF REQUIREMENTS RELATING TO**
2 **USE AND DISCLOSURE OF CUSTOMER PRO-**
3 **PRIETARY NETWORK INFORMATION.**

4 (a) MODIFICATION OF REQUIREMENTS.—

5 (1) IN GENERAL.—Paragraph (1) of section
6 222(c) of the Communications Act of 1934 (47
7 U.S.C. 222(c)) is amended to read as follows:

8 “(1) PRIVACY REQUIREMENTS FOR TELE-
9 COMMUNICATIONS CARRIERS.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B) or as required by law, a tele-
12 communications carrier that receives or obtains
13 customer proprietary network information by
14 virtue of its provision of a telecommunications
15 service may use, disclose, or permit access to
16 customer proprietary network information that
17 identifies a customer as follows:

18 “(i) In the provision of—

19 “(I) the telecommunications serv-
20 ice from which such information is de-
21 rived; and

22 “(II) services necessary to, or
23 used in, the provision of such tele-
24 communications service, including the
25 publishing of directories.

1 “(ii) In the case of the use of such in-
2 formation by the telecommunications car-
3 rier for the provision of another of its
4 products or services to the customer, only
5 if the telecommunications carrier—

6 “(I) provides the customer a
7 clear and conspicuous notice meeting
8 the requirements set forth in subpara-
9 graph (C);

10 “(II) permits the customer to re-
11 view such information for accuracy,
12 and to correct and supplement such
13 information; and

14 “(III) does not receive from the
15 customer within 15 days after the
16 date of the notice under subclause (I)
17 notice disapproving the use of such in-
18 formation for the provision of such
19 product or service to the customer as
20 specified in the notice under such sub-
21 clause.

22 “(iii) In the case of the use, disclo-
23 sure, or access of or to such information
24 by another party, only if the telecommuni-

1 cations carrier that originally receives or
2 obtains such information—

3 “(I) meets the requirements set
4 forth in subclauses (I) and (II) of
5 clause (ii) with respect to such infor-
6 mation; and

7 “(II) receives from the customer
8 written notice approving the use, dis-
9 closure, or access of or to such infor-
10 mation for the provision of the prod-
11 uct or service to the customer as spec-
12 ified in the notice under subclause (I)
13 of this clause.

14 “(B) CUSTOMER DISAPPROVAL.—Notwith-
15 standing the previous approval of the use, dis-
16 closure, or access of or to information for a
17 purpose under clause (ii) or (iii) of subpara-
18 graph (A), upon receipt from a customer of
19 written notice of the customer’s disapproval of
20 the use, disclosure, or access of or to informa-
21 tion for such purpose, a telecommunications
22 carrier shall terminate the use, disclosure, or
23 access of or to such information for such pur-
24 pose.

1 “(C) NOTICE ELEMENTS.—Each notice
2 under clause (ii) or (iii) of subparagraph (A)
3 shall include the following:

4 “(i) The types information that may
5 be used, disclosed, or accessed.

6 “(ii) The specific types of businesses
7 or individuals that may use or access the
8 information or to which the information
9 may be disclosed.

10 “(iii) The specific product or service
11 for which the information may be used,
12 disclosed, or accessed.”.

13 (2) CONFORMING AMENDMENTS.—Paragraph
14 (3) of such section is amended by striking “para-
15 graph (1)” both places it appears and inserting
16 “paragraph (1)(A)(i)”.

17 (b) JUDICIAL AND LAW ENFORCEMENT PUR-
18 POSES.—Such section is further amended by adding at the
19 end the following:

20 “(4) JUDICIAL AND LAW ENFORCEMENT PUR-
21 POSES.—

22 “(A) IN GENERAL.—A person that receives
23 or obtains consumer proprietary network infor-
24 mation may disclose such information—

“(i) pursuant to the standards and procedures established in the Federal Rules of Civil Procedure or comparable rules of other courts or administrative agencies, in connection with litigation or proceedings to which an individual who is the subject of the information is a party and in which the individual has placed the use, disclosure, or access to such information at issue;

“(ii) to a court, and to others ordered by the court, if in response to a court order issued in accordance with subparagraph (B); or

“(iii) to an investigative or law enforcement officer pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, or a grand jury subpoena, or a court order issued in accordance with subparagraph (B).

“(B) REQUIREMENTS FOR COURT ORDERS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a court order for the

disclosure of customer proprietary network information under subparagraph (A) may be issued by a court of competent jurisdiction only upon written application, upon oath or equivalent affirmation, by an investigative or law enforcement officer demonstrating that there is probable cause to believe that—

“(I) the information sought is relevant and material to an ongoing criminal investigation; and

“(II) the law enforcement need for the information outweighs the privacy interest of the individual to whom the information pertains.

“(ii) CERTAIN ORDERS.—A court order may not be issued under this paragraph upon application of an officer of a State or local government if prohibited by the law of the State concerned.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

○