

107TH CONGRESS
1ST SESSION

H. R. 90

IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2001

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Know Your Caller Act
3 of 2001”.

4 **SEC. 2. PROHIBITION OF INTERFERENCE WITH CALLER**
5 **IDENTIFICATION SERVICES.**

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

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

10 (2) by inserting after subsection (d) the fol-
11 lowing new subsection:

12 “(e) PROHIBITION ON INTERFERENCE WITH CALLER
13 IDENTIFICATION SERVICES.—

14 “(1) IN GENERAL.—It shall be unlawful for any
15 person within the United States, in making any tele-
16 phone solicitation—

17 “(A) to interfere with or circumvent the
18 capability of a caller identification service to ac-
19 cess or provide to the recipient of the telephone
20 call involved in the solicitation any information
21 regarding the call that such service is capable
22 of providing; and

23 “(B) to fail to provide caller identification
24 information in a manner that is accessible by a
25 caller identification service, if such person has

1 capability to provide such information in such a
2 manner.

3 For purposes of this section, the use of a tele-
4 communications service or equipment that is incapa-
5 ble of transmitting caller identification information
6 shall not, of itself, constitute interference with or
7 circumvention of the capability of a caller identifica-
8 tion service to access or provide such information.

9 “(2) REGULATIONS.—Not later than 6 months
10 after the enactment of the Know Your Caller Act of
11 2001, the Commission shall prescribe regulations to
12 implement this subsection, which shall—

13 “(A) specify that the information regard-
14 ing a call that the prohibition under paragraph
15 (1) applies to includes—

16 “(i) the name of the person or entity
17 who makes the telephone call involved in
18 the solicitation;

19 “(ii) the name of the person or entity
20 on whose behalf the solicitation is made;
21 and

22 “(iii) a valid and working telephone
23 number at which the person or entity on
24 whose behalf the telephone solicitation is
25 made may be reached during regular busi-

1 ness hours for the purpose of requesting
2 that the recipient of the solicitation be
3 placed on the do-not-call list required
4 under section 64.1200 of the Commission’s
5 regulations (47 CFR 64.1200) to be main-
6 tained by such person or entity; and

7 “(B) provide that a person or entity may
8 not use such a do-not-call list for any purpose
9 (including transfer or sale to any other person
10 or entity for marketing use) other than enforce-
11 ment of such list.

12 “(3) PRIVATE RIGHT OF ACTION.—A person or
13 entity may, if otherwise permitted by the laws or
14 rules of court of a State, bring in an appropriate
15 court of that State—

16 “(A) an action based on a violation of this
17 subsection or the regulations prescribed under
18 this subsection to enjoin such violation;

19 “(B) an action to recover for actual mone-
20 tary loss from such a violation, or to receive
21 \$500 in damages for each such violation, which-
22 ever is greater; or

23 “(C) both such actions.

24 If the court finds that the defendant willfully or
25 knowingly violated this subsection or the regulations

1 prescribed under this subsection, the court may, in
2 its discretion, increase the amount of the award to
3 an amount equal to not more than 3 times the
4 amount available under subparagraph (B) of this
5 paragraph.

6 “(4) DEFINITIONS.—For purposes of this sub-
7 section:

8 “(A) CALLER IDENTIFICATION SERVICE.—

9 The term ‘caller identification service’ means
10 any service or device designed to provide the
11 user of the service or device with the telephone
12 number of an incoming telephone call.

13 “(B) TELEPHONE CALL.—The term ‘tele-

14 phone call’ means any telephone call or other
15 transmission which is made to or received at a
16 telephone number of any type of telephone serv-
17 ice and includes telephone calls made using the
18 Internet (irrespective of the type of customer
19 premises equipment used in connection with
20 such services). Such term also includes calls
21 made by an automatic telephone dialing system,
22 an integrated services digital network, and a
23 commercial mobile radio source.”.

1 **SEC. 3. EFFECT ON STATE LAW AND STATE ACTIONS.**

2 (a) EFFECT ON STATE LAW.—Subsection (f)(1) of
3 section 227 of the Communications Act of 1934 (47
4 U.S.C. 227(f)(1)), as so redesignated by section 2(1) of
5 this Act, is further amended by inserting after “subsection
6 (d)” the following: “and the prohibition under paragraphs
7 (1) and (2) of subsection (e),”.

8 (b) ACTIONS BY STATES.—The first sentence of sub-
9 section (g)(1) of section 227 of the Communications Act
10 of 1934 (47 U.S.C. 227(g)(1)), as so redesignated by sec-
11 tion 2(1) of this Act, is further amended by striking “tele-
12 phone calls” and inserting “telephone solicitations, tele-
13 phone calls,”.

14 **SEC. 4. STUDY REGARDING TRANSMISSION OF CALLER**
15 **IDENTIFICATION INFORMATION.**

16 The Federal Communications Commission shall con-
17 duct a study to determine—

18 (1) the extent of the capability of the public
19 switched network to transmit the information that
20 can be accessed by caller identification services;

21 (2) the types of telecommunications equipment
22 being used in the telemarketing industry, the extent
23 of such use, and the capabilities of such types of
24 equipment to transmit the information that can be
25 accessed by caller identification services; and

1 (3) the changes to the public switched network
2 and to the types of telecommunications equipment
3 commonly being used in the telemarketing industry
4 that would be necessary to provide for the public
5 switched network to be able to transmit caller identi-
6 fication information on all telephone calls, and the
7 costs (including costs to the telemarketing industry)
8 to implement such changes.

9 The Commission shall complete the study and submit a
10 report to the Congress on the results of the study, not
11 later than one year after the date of the enactment of this
12 Act.

Passed the House of Representatives December 4,
2001.

Attest:

JEFF TRANDAHL,

Clerk.