

Calendar No. 173

110TH CONGRESS
1ST SESSION

H. R. 740

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2007

Received; read twice and referred to the Committee on the Judiciary

MAY 24, 2007

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend title 18, United States Code, to prevent caller
ID spoofing, 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 “*Preventing Harass-
5 ment through Outbound Number Enforcement (PHONE)
6 Act of 2007*”.

1 **SEC. 2. CALLER ID SPOOFING.**

2 (a) **IN GENERAL.**—Chapter 47 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 1040. Caller ID spoofing**

6 **“(a) OFFENSE.**—Whoever, in or affecting interstate
7 or foreign commerce, knowingly uses or provides to an-
8 other—

9 “(1) false caller ID information with intent to
10 defraud; or

11 “(2) caller ID information pertaining to an ac-
12 tual person without that person’s consent and with
13 intent to deceive the recipient of a call about the
14 identity of the caller;

15 or attempts or conspires to do so, shall be punished as
16 provided in subsection (b).

17 **“(b) PUNISHMENT.**—Whoever violates subsection (a)
18 shall—

19 “(1) if the offense is committed for commercial
20 gain, be fined under this title or imprisoned not
21 more than 5 years, or both; and

22 “(2) be fined under this title or imprisoned not
23 more than one year, or both, in any other case.

24 **“(c) LAW ENFORCEMENT EXCEPTION.**—It is a de-
25 fense to a prosecution for an offense under this section
26 that the conduct involved was lawfully authorized inves-

1 tigative, protective, or intelligence activity of a law en-
2 forcement agency of the United States, a State, or a polit-
3 ical subdivision of a State, or of an intelligence agency
4 of the United States, or any activity authorized under
5 chapter 224 of this title.

6 **“(d) FORFEITURE.—**

7 **“(1) IN GENERAL.—**The court, in imposing sen-
8 tence on a person who is convicted of an offense
9 under this section, shall order that the defendant
10 forfeit to the United States—

11 **“(A)** any property, real or personal, consti-
12 tuting or traceable to gross proceeds obtained
13 from such offense; and

14 **“(B)** any equipment, software or other
15 technology used or intended to be used to com-
16 mit or to facilitate the commission of such of-
17 fense.

18 **“(2) PROCEDURES.—**The procedures set forth
19 in section 413 of the Controlled Substances Act (21
20 U.S.C. 853), other than subsection (d) of that sec-
21 tion, and in Rule 32.2 of the Federal Rules of
22 Criminal Procedure, shall apply to all stages of a
23 criminal forfeiture proceeding under this section.

24 **“(e) DEFINITIONS.—**In this section—

1 “(1) the term ‘caller ID information’ means in-
2 formation regarding the origination of the telephone
3 call, such as the name or the telephone number of
4 the caller;

5 “(2) the term ‘telephone call’ means a call
6 made using or received on a telecommunications
7 service or VOIP service;

8 “(3) the term ‘VOIP service’ means a service
9 that—

10 “(A) provides real-time 2-way voice com-
11 munications transmitted using Internet Pro-
12 tocol, or a successor protocol;

13 “(B) is offered to the public, or such class-
14 es of users as to be effectively available to the
15 public (whether part of a bundle of services or
16 separately); and

17 “(C) has the capability to originate traffic
18 to, or terminate traffic from, the public
19 switched telephone network or a successor net-
20 work;

21 “(4) the term ‘State’ includes a State of the
22 United States, the District of Columbia, and any
23 commonwealth, territory, or possession of the United
24 States; and

1 “(5) a term used in a definition in this sub-
2 section has the meaning given that term in section
3 3 of the Communications Act of 1934 (47 U.S.C.
4 153).”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of chapter 47 of title 18, United States
7 Code, is amended by adding at the end the following new
8 item:

“1040. Caller ID spoofing.”.

9 **SEC. 3. OTHER SPECIFIED UNLAWFUL ACTIVITIES FOR**
10 **MONEY LAUNDERING.**

11 (a) FRAUD AND RELATED ACTIVITY IN CONNECTION
12 WITH ELECTRONIC MAIL.—Section 1956(e)(7)(D) of title
13 18, United States Code, is amended by inserting “section
14 1037 (Fraud and related activity in connection with elec-
15 tronic mail),” after “1032”.

16 (b) CALLER ID SPOOFING.—Section 1956(e)(7)(D)
17 of title 18, United States Code, is amended by inserting
18 “section 1040 (Caller ID spoofing),” before “section
19 1111”.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Preventing Harassment
22 through Outbound Number Enforcement Act of 2007” or the
23 “PHONE Act of 2007”.*

1 **SEC. 2. CALLER ID SPOOFING.**

2 (a) *IN GENERAL.*—Chapter 47 of title 18, United
3 States Code, is amended by adding at the end the following:

4 **“§ 1040. Caller ID spoofing**

5 “(a) *OFFENSE.*—Whoever, in or affecting interstate or
6 foreign commerce, knowingly uses or provides to another—

7 “(1) false caller ID information with intent
8 wrongfully to obtain anything of value; or

9 “(2) caller ID information pertaining to an ac-
10 tual person or other entity without that person’s or
11 entity’s consent and with intent to deceive any person
12 or other entity about the identity of the caller;

13 or attempts or conspires to do so, shall be punished as pro-
14 vided in subsection (b).

15 “(b) *PUNISHMENT.*—Whoever violates subsection (a)
16 shall—

17 “(1) if the offense is a violation of subsection
18 (a)(1), be fined under this title or imprisoned not
19 more than 5 years, or both; and

20 “(2) if the offense is a violation of subsection
21 (a)(2), be fined under this title or imprisoned not
22 more than one year, or both.

23 “(c) *LAW ENFORCEMENT EXCEPTION.*—This section
24 does not prohibit lawfully authorized investigative, protec-
25 tive, or intelligence activity of a law enforcement agency
26 of the United States, a State, or a political subdivision of

1 a State, or of an intelligence agency of the United States,
2 or any activity authorized under chapter 224 of this title.

3 “(d) *FORFEITURE*.—

4 “(1) *IN GENERAL*.—The court, in imposing sen-
5 tence on a person who is convicted of an offense under
6 this section, shall order that the defendant forfeit to
7 the United States—

8 “(A) any property, real or personal, consti-
9 tuting or traceable to gross proceeds obtained
10 from such offense; and

11 “(B) any equipment, software or other tech-
12 nology used or intended to be used to commit or
13 to facilitate the commission of such offense.

14 “(2) *PROCEDURES*.—The procedures set forth in
15 section 413 of the Controlled Substances Act (21
16 U.S.C. 853), other than subsection (d) of that section,
17 and in Rule 32.2 of the Federal Rules of Criminal
18 Procedure, shall apply to all stages of a criminal for-
19 feiture proceeding under this section.

20 “(e) *DEFINITIONS*.—In this section—

21 “(1) the term ‘caller ID information’ means any
22 identifying information regarding the origination of
23 a telephone call, including the name or the telephone
24 number of the caller, that is transmitted with the tele-
25 phone call;

1 “(2) the term ‘telephone call’ means a call made
2 using or received on a telecommunications service or
3 VOIP service;

4 “(3) the term ‘telecommunications service’ means
5 the offering of telecommunications for a fee directly to
6 the public, or to such classes of users as to be effec-
7 tively available directly to the public, regardless of the
8 facilities used;

9 “(4) the term ‘VOIP service’ means a service
10 that—

11 “(A) provides real-time or near real-time
12 voice communications transmitted using Internet
13 Protocol, or a successor protocol;

14 “(B) is offered to the public, or such classes
15 of users as to be effectively available to the public
16 (whether part of a bundle of services or sepa-
17 rately); and

18 “(C) has the capability to originate traffic
19 to, or terminate traffic from, the public switched
20 telephone network or a successor network; and

21 “(5) the term ‘State’ includes a State of the
22 United States, the District of Columbia, and any
23 commonwealth, territory, or possession of the United
24 States.”.

1 (b) *CLERICAL AMENDMENT.*—*The table of sections at*
2 *the beginning of chapter 47 of title 18, United States Code,*
3 *is amended by adding at the end the following new item:*
“1040. *Caller ID spoofing.*”.

4 **SEC. 3. OTHER SPECIFIED UNLAWFUL ACTIVITIES FOR**
5 ***MONEY LAUNDERING.***

6 *Section 1956(c)(7)(D) of title 18, United States Code,*
7 *is amended by inserting “section 1037 (relating to fraud*
8 *and related activity in connection with electronic mail),*
9 *section 1040 (relating to caller ID spoofing),” before “sec-*
10 *tion 1111”.*

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