

115TH CONGRESS
2D SESSION

S. 2705

To amend the Communications Act of 1934 to expand and clarify the prohibition on inaccurate caller identification information and to require providers of telephone service to offer technology to subscribers to reduce the incidence of unwanted telephone calls and text messages, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 18, 2018

Mr. BLUMENTHAL (for himself, Mr. MARKEY, Mr. WYDEN, Mr. SCHUMER, Ms. BALDWIN, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to expand and clarify the prohibition on inaccurate caller identification information and to require providers of telephone service to offer technology to subscribers to reduce the incidence of unwanted telephone calls and text messages, 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 “Repeated Objectionable
3 Bothering of Consumers on Phones Act” or the
4 “ROBOCOP Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) The incidence of unwanted telephone calls
8 and text messages is a nationwide nuisance.

9 (2) The Federal Trade Commission received
10 more than—

11 (A) 5,300,000 complaints about unwanted
12 telephone calls in fiscal year 2016; and

13 (B) 7,000,000 such complaints in fiscal
14 year 2017.

15 (3) Telephone scammers target vulnerable con-
16 sumers, particularly the elderly.

17 (4) The national “do-not-call” registry has ef-
18 fectively addressed unwanted telephone calls from le-
19 gitimate companies, but consumers continue to be
20 subject to unwanted calls originating from sources
21 outside the United States and illegitimate operators.

22 (5) Telemarketing fraud cost consumers an es-
23 timated \$350,000,000 in 2011.

24 (6) Existing Federal law is inadequate to ad-
25 dress this problem.

1 (7) Preventing unwanted telephone calls and
2 text messages from reaching consumers requires 2
3 approaches:

4 (A) Identifying unwanted calls and text
5 messages.

6 (B) Giving the consumers the ability to
7 block or filter unwanted calls and text mes-
8 sages.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) CALLER IDENTIFICATION INFORMATION;
12 TEXT MESSAGE.—The terms “caller identification
13 information” and “text message” have the meanings
14 given those terms in section 227(a) of the Commu-
15 nications Act of 1934 (47 U.S.C. 227(a)), as amend-
16 ed by this Act.

17 (2) COMMISSION.—The term “Commission”
18 means the Federal Communications Commission.

19 **SEC. 4. EXPANDING AND CLARIFYING PROHIBITION ON IN-**
20 **ACCURATE CALLER ID INFORMATION.**

21 (a) TEXT MESSAGING SERVICE.—Section 227 of the
22 Communications Act of 1934 (47 U.S.C. 227), as amend-
23 ed by section 503(a) of division P of the Consolidated Ap-
24 propriations Act, 2018 (Public Law 115–141), is amend-
25 ed—

1 (1) in subsection (a)—

2 (A) by redesignating paragraphs (2), (3),
3 (4), and (5) as paragraphs (4), (5), (6), and
4 (9), respectively;

5 (B) by inserting after paragraph (1) the
6 following:

7 “(2) The term ‘caller identification information’
8 means information provided by a caller identification
9 service regarding the telephone number of, or other
10 information regarding the origination of—

11 “(A) a call made using a voice service; or

12 “(B) a text message sent using a text mes-
13 saging service.

14 “(3) The term ‘caller identification service’—

15 “(A) means any service or device designed
16 to provide the user of the service or device with
17 the telephone number of, or other information
18 regarding the origination of—

19 “(i) a call made using a voice service;

20 or

21 “(ii) a text message sent using a text
22 messaging service; and

23 “(B) includes automatic number identifica-
24 tion services.”;

1 (C) by inserting after paragraph (6), as so
2 redesignated, the following:

3 “(7) The term ‘text message’—

4 “(A) means a real-time or near real-time
5 digital message consisting of text, images,
6 sounds, or other information that is transmitted
7 from or received by a device that is identified
8 as the transmitting or receiving device by
9 means of a telephone number;

10 “(B) includes—

11 “(i) a short message service (com-
12 monly referred to as ‘SMS’) message;

13 “(ii) an enhanced message service
14 (commonly referred to as ‘EMS’) message;
15 and

16 “(iii) a multimedia message service
17 (commonly referred to as ‘MMS’) message;
18 and

19 “(C) does not include a real-time, 2-way
20 voice or video communication.

21 “(8) The term ‘text messaging service’ means a
22 service that permits the transmission or receipt of a
23 text message, including a service provided as part of
24 or in connection with a telecommunications service
25 or an IP-enabled voice service.”; and

1 (D) by adding at the end the following:

2 “(10) The term ‘voice service’—

3 “(A) means any service that—

4 “(i) is interconnected with the public
5 switched telephone network; and

6 “(ii) furnishes voice communications
7 to an end user using resources from the
8 North American Numbering Plan or any
9 successor to the North American Num-
10 bering Plan adopted by the Commission
11 under section 251(e)(1); and

12 “(B) includes transmissions from a tele-
13 phone facsimile machine, computer, or other de-
14 vice to a telephone facsimile machine.”; and

15 (2) in subsection (e)—

16 (A) by striking paragraph (8); and

17 (B) by redesignating paragraph (9) as
18 paragraph (8).

19 (b) REGULATIONS.—Not later than 18 months after
20 the date of enactment of this Act, the Commission shall
21 prescribe regulations to implement the amendments made
22 by this section.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the date that is 180 days

1 after the date on which the Commission prescribes regula-
 2 tions under subsection (b).

3 **SEC. 5. TECHNOLOGY REQUIREMENTS.**

4 (a) IN GENERAL.—Section 227(d) of the Commu-
 5 nications Act of 1934 (47 U.S.C. 227(d)) is amended by
 6 adding at the end the following:

7 “(4) TECHNOLOGY OFFERED BY PROVIDERS.—

8 “(A) DEFINITIONS.—In this paragraph:

9 “(i) ORIGINATING PROVIDER.—The
 10 term ‘originating provider’ means a pro-
 11 vider of a voice service or text messaging
 12 service that permits a subscriber to origi-
 13 nate a call or text message that may be
 14 transmitted on the public switched tele-
 15 phone network.

16 “(ii) RECEIVING PROVIDER.—The
 17 term ‘receiving provider’ means a provider
 18 of a voice service or text messaging service
 19 that permits a subscriber to receive a call
 20 or text message originating, or that may be
 21 transmitted, on the public switched tele-
 22 phone network.

23 “(B) REQUIREMENTS TO OFFER TECH-
 24 NOLOGY.—

1 “(i) ORIGINATING PROVIDERS.—The
2 Commission shall by regulation establish
3 technical and procedural standards to re-
4 quire an originating provider to enable, for
5 each subscriber of the provider and for no
6 additional charge, technology that verifies,
7 for any call or text message originated by
8 the subscriber, that the caller identification
9 information indicated for the call or text
10 message accurately identifies the sub-
11 scriber unless—

12 “(I) the call or text message is
13 exempted, under regulations described
14 in clause (ii) or (iii) of subsection
15 (e)(3)(B), from the prohibition under
16 subsection (e)(1); or

17 “(II) the subscriber requests that
18 the originating provider not display
19 caller identification that accurately
20 identifies the subscriber for a call or
21 text message originated by the sub-
22 scriber, in which case the caller identi-
23 fication information shall state, ‘Call-
24 er ID Blocked’.

1 “(ii) RECEIVING PROVIDERS.—The
2 Commission shall by regulation establish
3 technical and procedural standards to re-
4 quire any receiving provider, for each sub-
5 scriber of the provider and for no addi-
6 tional charge—

7 “(I) to enable, and to offer to the
8 subscriber the option to disable, tech-
9 nology that—

10 “(aa) determines that an in-
11 coming call or text message is
12 verified by the technology enabled
13 in accordance with clause (i) as
14 providing caller identification in-
15 formation in accordance with
16 that clause, whether by—

17 “(AA) accurately iden-
18 tifying the person origi-
19 nating the call or text mes-
20 sage;

21 “(BB) lawfully pro-
22 viding misleading or inac-
23 curate caller identification;
24 or

1 “(CC) displaying ‘Call-
2 er ID Blocked’; or

3 “(bb) if an incoming call or
4 text message is not verified as
5 described in item (aa), prevents
6 the subscriber from receiving the
7 call or text message;

8 “(II) to offer to the subscriber
9 the option to enable technology that—

10 “(aa) identifies an incoming
11 call or text message as origi-
12 nating or probably originating
13 from an automatic telephone di-
14 aling system; and

15 “(bb) prevents the sub-
16 scriber from receiving a call or
17 text message identified as de-
18 scribed in item (aa) unless—

19 “(AA) the call or text
20 message is made or sent by
21 a public safety entity, in-
22 cluding a public safety an-
23 swering point (as defined in
24 section 222(h)), emergency

1 operations center, or law en-
2 forcement agency; or

3 “(BB) the subscriber
4 has provided prior express
5 consent to receive the call or
6 text message and has not re-
7 voked that consent; and

8 “(III) to offer to the subscriber
9 the ability to request that the receiv-
10 ing provider prevent the subscriber
11 from receiving calls and text messages
12 originating from a particular person.

13 “(C) COMMISSION OVERSIGHT.—

14 “(i) APPEALS PROCESS RELATING TO
15 ALLEGED AUTODIALERS.—The standards
16 established under subparagraph (B)(ii)(II)
17 shall provide for an appeals process under
18 which—

19 “(I) a subscriber of an origi-
20 nating provider (referred to in this
21 clause as the ‘originating subscriber’)
22 may notify the Commission that the
23 technology offered under that sub-
24 paragraph by a receiving provider is—

1 “(aa) incorrectly identifying
2 the calls or text messages of the
3 originating subscriber as origi-
4 nating or probably originating
5 from an automatic telephone di-
6 aling system; or

7 “(bb) preventing other sub-
8 scribers from receiving calls or
9 text messages originated by the
10 originating subscriber that are
11 permitted under item (bb) of that
12 subparagraph;

13 “(II) if the Commission finds
14 that the circumstance about which the
15 originating subscriber notified the
16 Commission exists, the Commission
17 shall take such action as is reasonably
18 necessary to correct the circumstance;
19 and

20 “(III) if the receiving provider is
21 preventing a subscriber of the receiv-
22 ing provider (referred to in this clause
23 as the ‘receiving subscriber’) from re-
24 ceiving calls or text messages origi-
25 nated by the originating subscriber

1 because the receiving subscriber has
2 requested that prevention, whether di-
3 rectly or through a call-blocking serv-
4 ice, the Commission may not require
5 the receiving provider to stop pre-
6 venting the calls or text messages un-
7 less the receiving subscriber provides
8 affirmative consent.

9 “(ii) WHITELISTING.—

10 “(I) REQUEST.—A subscriber
11 that offers essential services (referred
12 to in this clause as an ‘essential serv-
13 ices subscriber’) may request that the
14 Commission require each receiving
15 provider to allow subscribers of the re-
16 ceiving provider to receive calls or text
17 messages originating from the essen-
18 tial services subscriber.

19 “(II) GRANT.—If the Commis-
20 sion, through a rigorous vetting proc-
21 ess using the unblocking system es-
22 tablished under clause (iii), confirms
23 the identity of an essential services
24 subscriber described in subclause (I)
25 of this clause, the Commission shall

1 require each receiving provider to
2 allow each subscriber of the receiving
3 provider to receive calls or text mes-
4 sages originating from the essential
5 services subscriber unless the sub-
6 scriber of the receiving provider has
7 requested under subparagraph
8 (B)(ii)(III) that the receiving provider
9 prevent the subscriber from receiving
10 calls and text messages originating
11 from that essential services sub-
12 scriber.

13 “(III) DEFINITION OF ESSEN-
14 TIAL SERVICES.—The Commission
15 shall by regulation define the term
16 ‘essential services’ for purposes of this
17 clause.

18 “(iii) UNBLOCKING SYSTEM AND
19 DATABASE.—

20 “(I) IN GENERAL.—In order to
21 carry out this subparagraph and en-
22 sure that consumers are in control of
23 the calls and text messages they re-
24 ceive, the Commission shall establish
25 a nationwide unblocking system that

1 includes a database, to be known as
2 the ‘Unblocking Database’, of sub-
3 scribers whose identity the Commis-
4 sion has confirmed under clause
5 (ii)(II).

6 “(II) FUNDING.—The Commis-
7 sion shall—

8 “(aa) assess a fee on any
9 subscriber that wishes to partici-
10 pate in the nationwide unblocking
11 system; and

12 “(bb) use amounts collected
13 under item (aa) to fund the oper-
14 ation of the nationwide
15 unblocking system.

16 “(D) PRIVATE RIGHT OF ACTION.—

17 “(i) IN GENERAL.—A person ag-
18 grieved by a violation of the regulations
19 prescribed under clause (i) or (ii) of sub-
20 paragraph (B) may bring an action in an
21 appropriate district court of the United
22 States, or, if otherwise permitted by the
23 laws or rules of court of a State, in an ap-
24 propriate court of that State, to—

25 “(I) enjoin the violation; or

1 “(II) recover the greater of—

2 “(aa) actual damages; or

3 “(bb) \$500 per violation.

4 “(ii) ENHANCED AWARDS.—If the
5 court finds in an action brought under
6 clause (i) that the defendant willfully or
7 knowingly violated the regulations de-
8 scribed in that clause, the court may in-
9 crease the amount of the award to an
10 amount equal to not more than 3 times the
11 amount available under subclause (II) of
12 that clause.

13 “(E) RULES OF CONSTRUCTION.—

14 “(i) PREVENTION OF CALLS OR TEXT
15 MESSAGES.—For purposes of a regulation
16 prescribed under this paragraph, a call or
17 text message shall be considered to be pre-
18 vented even if the call or text message is
19 recorded or redirected in a manner that al-
20 lows the called party or intended recipient
21 to—

22 “(I) be notified of the attempt to
23 make the call or send the text mes-
24 sage; or

25 “(II) have access to—

1 “(aa) a message left by the
2 calling party; or

3 “(bb) the text message.

4 “(ii) BLOCKING CALLER IDENTIFICA-
5 TION INFORMATION.—Nothing in this
6 paragraph may be construed to require an
7 originating provider to prevent or restrict
8 any person from blocking the capability of
9 any caller identification service to transmit
10 caller identification information.”.

11 (b) EXEMPTIONS FROM INACCURATE CALLER ID
12 PROHIBITION.—Section 227(e)(3)(B) of the Communica-
13 tions Act of 1934 (47 U.S.C. 227(e)(3)(B)) is amended
14 by adding at the end the following:

15 “(iii) EXEMPTION PROCESS FOR LE-
16 GITIMATE NEED.—The regulations re-
17 quired under subparagraph (A) shall pro-
18 vide for a process under which a person
19 may demonstrate that the person has a le-
20 gitimate need to provide misleading or in-
21 accurate information for certain calls or
22 text messages, such as a call made or text
23 message sent to conduct an activity of a
24 domestic violence shelter or medical prac-
25 tice.”.

1 (c) ACTIONS BY STATES.—Section 227(g)(1) of the
 2 Communications Act of 1934 (47 U.S.C. 227(g)(1)) is
 3 amended—

4 (1) by inserting after “regulations prescribed
 5 under this section,” the following: “, a pattern or
 6 practice of failure to provide the technology required
 7 under subsection (d)(4)(A)(i) that threatens or ad-
 8 versely affects an interest of such residents, or a
 9 pattern or practice of failure to provide to such resi-
 10 dents the technology or the options, as applicable,
 11 required under subsection (d)(4)(A)(ii),”; and

12 (2) by inserting after “to enjoin such calls” the
 13 following: “or such a failure”.

14 (d) REGULATIONS.—The Commission shall prescribe
 15 the regulations required under the amendments made by
 16 subsections (a) and (b) not later than 18 months after
 17 the date of enactment of this Act.

18 (e) EFFECTIVE DATE.—The amendments made by
 19 this section shall take effect on the date that is 180 days
 20 after the date on which the Commission prescribes regula-
 21 tions under subsection (d).

1 **SEC. 6. INTENTIONAL INTERFERENCE WITH CALL-BLOCK-**
 2 **ING TECHNOLOGY.**

3 (a) IN GENERAL.—Section 227 of the Communica-
 4 tions Act of 1934 (47 U.S.C. 227) is amended by adding
 5 at the end the following:

6 “(i) INTENTIONAL INTERFERENCE WITH CALL-
 7 BLOCKING TECHNOLOGY.—

8 “(1) IN GENERAL.—It shall be unlawful for any
 9 person within the United States, or any person out-
 10 side the United States if the recipient is within the
 11 United States, with the intent to cause harm, to
 12 take any action that causes the technology offered
 13 under subsection (d)(4)(A)(ii)(II) to—

14 “(A) incorrectly identify calls or text mes-
 15 sages as originating or probably originating
 16 from an automatic telephone dialing system; or

17 “(B) prevent (as that term is used in sub-
 18 section (d)(4)) the called party from receiving a
 19 call, or the intended recipient from receiving a
 20 text message—

21 “(i) that is made or sent by a public
 22 safety entity, including a—

23 “(I) public safety answering
 24 point (as defined in section 222(h));

25 “(II) emergency operations cen-
 26 ter; or

1 “(III) law enforcement agency; or
 2 “(ii) to which the called party or in-
 3 tended recipient has provided prior express
 4 consent.

5 “(2) PENALTIES; ACTIONS BY STATES.—Any
 6 person who violates this subsection or the regula-
 7 tions prescribed under this subsection shall be sub-
 8 ject to the penalties under paragraph (5) of sub-
 9 section (e), and to actions by States under para-
 10 graph (6) of that subsection, in the same manner
 11 and to the same extent as if the person had violated
 12 that subsection or the regulations prescribed under
 13 that subsection.”.

14 (b) DEADLINE FOR REGULATIONS.—The Commis-
 15 sion shall prescribe regulations to implement subsection
 16 (i) of section 227 of the Communications Act of 1934 (47
 17 U.S.C. 227), as added by this section, not later than 18
 18 months after the date of enactment of this Act.

19 (c) EFFECTIVE DATE.—The amendment made by
 20 this section shall take effect on the date that is 180 days
 21 after the date on which the Commission prescribes regula-
 22 tions under subsection (b).

23 **SEC. 7. RULE OF CONSTRUCTION.**

24 Nothing in this Act or the amendments made by this
 25 Act shall be construed to limit any authority of the Com-

1 mission to determine that, for purposes of section 227 of
2 the Communications Act of 1934 (47 U.S.C. 227), a call
3 includes a text message or any similar message.

4 **SEC. 8. REPORTS TO CONGRESS.**

5 (a) CALLER NAME FALSIFICATION.—Not later than
6 180 days after the date of enactment of this Act, the Com-
7 mission shall, in consultation with the Federal Trade
8 Commission, submit to Congress and make available on
9 a public website a report containing the findings and con-
10 clusions of a study determining how to minimize the extent
11 to which the names of persons making calls or sending
12 text messages are falsified in caller identification name
13 databases.

14 (b) TECHNOLOGY REQUIREMENTS.—

15 (1) IN GENERAL.—Not later than 4 years after
16 the date of enactment of this Act, and every 4 years
17 thereafter until the date of termination described in
18 paragraph (2), the Commission shall submit to Con-
19 gress and make available on a public website a re-
20 port that contains the following information:

21 (A) The extent to which subscribers con-
22 tinue to receive calls or text messages with mis-
23 leading or inaccurate caller identification infor-
24 mation (except for calls or text messages ex-
25 empted under clause (ii) of section 227(e)(3)(B)

1 of the Communications Act of 1934 (47 U.S.C.
2 227(e)(3)(B)) or clause (iii) of that section (as
3 added by section 5)), including a quantitative
4 assessment of the difference between the num-
5 ber of complaints made to the Commission re-
6 garding such calls and text messages—

7 (i) before the effective date of the reg-
8 ulations required under paragraph (4)(B)
9 of section 227(d) of that Act, as added by
10 section 5; and

11 (ii) after the effective date described
12 in clause (i).

13 (B) The extent to which subscribers that
14 choose to enable technology offered under para-
15 graph (4)(B)(ii)(II) of section 227(d) of the
16 Communications Act of 1934 (47 U.S.C.
17 227(d)), as added by section 5, continue to re-
18 ceive calls or text messages originating from an
19 automatic telephone dialing system (except for
20 calls or text messages from a public safety enti-
21 ty and calls or text messages to which sub-
22 scribers have provided prior express consent),
23 including a quantitative assessment of the dif-
24 ference between the number of complaints made

1 to the Commission regarding such calls and text
2 messages—

3 (i) before the effective date of the reg-
4 ulations required under that paragraph;
5 and

6 (ii) after the effective date described
7 in clause (i).

8 (C) An assessment of—

9 (i) whether the standards set forth in
10 the regulations required under paragraph
11 (4)(B) of section 227(d) of the Commu-
12 nications Act of 1934 (47 U.S.C. 227(d)),
13 as added by section 5, have been successful
14 in reducing the number of the calls and
15 text messages described in each of sub-
16 paragraphs (A) and (B) of this paragraph
17 received by subscribers; and

18 (ii) whether there have been any prob-
19 lems with the standards described in clause
20 (i) or the technology required by those
21 standards, such as the prevention of calls
22 or text messages—

23 (I) from public safety entities; or

24 (II) to which subscribers have
25 provided prior express consent.

1 (D) Any recommendations for legislative or
2 regulatory action to improve the standards de-
3 scribed in subparagraph (C).

4 (2) TERMINATION.—The date of termination
5 described in this paragraph is the date on which the
6 Commission, in consultation with the Federal Trade
7 Commission, determines that the report required
8 under paragraph (1) is no longer necessary because
9 of a substantial reduction in the number of calls and
10 text messages described in each of subparagraphs
11 (A) and (B) of that paragraph.

○