

115TH CONGRESS
2D SESSION

S. 3078

To amend the Communications Act of 1934 to clarify the prohibitions on making robocalls, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2018

Mr. MARKEY 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 clarify the prohibitions on making robocalls, 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 “Stopping Bad
5 Robocalls Act”.

6 **SEC. 2. PROHIBITIONS ON MAKING ROBOCALLS.**

7 (a) IN GENERAL.—Section 227 of the Communica-
8 tions Act of 1934 (47 U.S.C. 227) is amended—

9 (1) in subsection (a), by amending paragraph

10 (1) to read as follows:

1 “(1) The term ‘robocall’ means a call made (in-
2 cluding a text message sent)—

3 “(A) using equipment that makes a series
4 of calls to stored telephone numbers, including
5 numbers stored on a list, or to telephone num-
6 bers produced using a random or sequential
7 number generator, except for a call made using
8 only equipment that the caller demonstrates re-
9 quires substantial additional human interven-
10 tion to dial or place a call after a human initi-
11 ates the series of calls; or

12 “(B) using an artificial or prerecorded
13 voice.”;

14 (2) in subsection (b)—

15 (A) in paragraph (1)—

16 (i) in subparagraph (A)—

17 (I) by striking “any call” and in-
18 serting “any robocall”; and

19 (II) by striking “using any auto-
20 matic telephone dialing system or an
21 artificial or prerecorded voice”;

22 (ii) in subparagraph (B)—

23 (I) by striking “telephone call”
24 and inserting “robocall”; and

1 (II) by striking “using an artificial or prerecorded voice to deliver a
2 message”; and

3 (iii) in subparagraph (D), by striking
4 “use an automatic telephone dialing system” and inserting “make robocalls”; and

5 (B) in paragraph (2)(A), by striking “calls made using an artificial or prerecorded voice”
6 and inserting “robocalls”;

7 (3) in subsection (d)—

8 (A) in paragraph (1)(A)—

9 (i) by striking “telephone call using any automatic telephone dialing system”
10 and inserting “robocall described in subsection (a)(1)(A) using any equipment”;
11 and

12 (ii) by striking “or automatic telephone dialing system” and inserting “or to make any robocall described in subsection
13 (a)(1)(A)”;

14 (B) in paragraph (3)—

15 (i) in the heading, by inserting “ROBOCALL” after “VOICE”;

16 (ii) in the matter preceding subparagraph (A), by striking “artificial or
17 graph (A), by striking “artificial or

1 prerecorded voice message via telephone”
2 and inserting “robocall described in sub-
3 section (a)(1)(B)”;

4 (iii) in subparagraph (A), by striking
5 “all artificial or prerecorded telephone
6 messages” and inserting “the artificial or
7 prerecorded voice message contained in
8 any robocall described in that subsection”;
9 and

10 (4) in subsection (f)(1)—

11 (A) by striking subparagraphs (B) and (C)
12 and inserting the following:

13 “(B) the making of robocalls; or”; and

14 (B) by redesignating subparagraph (D) as
15 subparagraph (C).

16 (b) MANNER OF REVOKING PRIOR EXPRESS CON-
17 SENT.—Section 227(b) of the Communications Act of
18 1934 (47 U.S.C. 227(b)) is amended—

19 (1) by redesignating paragraph (3) as para-
20 graph (5); and

21 (2) by inserting after paragraph (2) the fol-
22 lowing:

23 “(3) MANNER OF REVOKING PRIOR EXPRESS
24 CONSENT.—For purposes of this subsection, prior
25 express consent may be revoked at any time and in

1 any reasonable manner, regardless of the context in
2 which consent was provided.”.

3 (c) DEADLINE FOR REGULATIONS.—Not later than
4 1 year after the date of enactment of this Act, the Federal
5 Communications Commission shall prescribe such regula-
6 tions, or amend such existing regulations, as necessary to
7 implement the amendments made by this section.

8 (d) REPORT TO CONGRESS ON TEXT MESSAGES.—
9 Not later than 60 days after the date of enactment of this
10 Act, after notice and an opportunity for public comment,
11 the Federal Communications Commission shall submit to
12 Congress a report on how best to limit the number of un-
13 wanted text messages received by consumers. The report
14 shall contain recommendations by the Commission, includ-
15 ing recommendations for potential legislation.

16 **SEC. 3. CONSUMER PROTECTIONS FOR EXEMPTIONS.**

17 (a) IN GENERAL.—Section 227(b)(2) of the Commu-
18 nications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

19 (1) in subparagraph (G), by striking “; and” at
20 the end and inserting a semicolon;

21 (2) in subparagraph (H), by striking the period
22 at the end and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(I) shall ensure that any exemption under
25 subparagraph (B) or (C) contains requirements

1 for calls made in reliance on the exemption with
 2 respect to—

3 “(i) the classes or categories of par-
 4 ties that may make those calls;

5 “(ii) the classes or categories of par-
 6 ties that may be called;

7 “(iii) the purposes for which the calls
 8 may be made;

9 “(iv) the number of calls that a call-
 10 ing party may make to a particular called
 11 party; and

12 “(v) the obligation of the calling
 13 party—

14 “(I) to provide the called party
 15 with a conspicuous consumer choice
 16 mechanism that permits the called
 17 party, at any time, to indicate that
 18 the called party wishes to stop receiv-
 19 ing the calls from the calling party;
 20 and

21 “(II) to stop making the calls to
 22 the called party if the called party so
 23 indicates.”.

24 (b) DEADLINE FOR REGULATIONS.—In the case of
 25 any exemption issued under subparagraph (B) or (C) of

1 section 227(b)(2) of the Communications Act of 1934 (47
 2 U.S.C. 227(b)(2)) before the date of enactment of this
 3 Act, the Federal Communications Commission, shall, not
 4 later than 1 year after that date of enactment, prescribe
 5 such regulations, or amend such existing regulations, as
 6 necessary to ensure that the exemption meets the require-
 7 ments of subparagraph (I) of such section 227(b)(2), as
 8 added by subsection (a).

9 **SEC. 4. REASSIGNED NUMBER DATABASE; SAFE HARBOR.**

10 (a) IN GENERAL.—Section 227(b) of the Commu-
 11 nications Act of 1934 (47 U.S.C. 227(b)), as amended by
 12 section 2(b), is further amended by inserting after para-
 13 graph (3) the following:

14 “(4) REASSIGNED NUMBER DATABASE; SAFE
 15 HARBOR.—

16 “(A) DATABASE REQUIRED.—

17 “(i) ESTABLISHMENT.—The Commis-
 18 sion shall establish a nationwide database
 19 of telephone numbers that have been reas-
 20 signed in order to provide persons making
 21 calls subject to this subsection with the
 22 comprehensive and timely information that
 23 those persons need to avoid making calls
 24 without the prior express consent of the

1 called party because of the reassignment of
2 the number called to a different party.

3 “(ii) CURRENT INFORMATION.—The
4 Commission shall ensure that information
5 in the database required under clause (i) is
6 up-to-date.

7 “(B) PROVIDER PARTICIPATION RE-
8 QUIRED.—The Commission shall require each
9 covered provider to report to the database re-
10 quired under subparagraph (A) the reassign-
11 ment of any telephone number to or from a
12 subscriber of the provider.

13 “(C) SAFE HARBOR.—Beginning on the
14 date of the establishment of the database re-
15 quired under subparagraph (A), in the case of
16 a person who makes a call subject to this sub-
17 section to a telephone number that has been re-
18 assigned from a subscriber who had given prior
19 express consent to be called by the person, the
20 person shall not be found in violation of this
21 subsection on the basis of not having the prior
22 express consent of the called party to make the
23 call, if the person shows that—

24 “(i) the person had the prior express
25 consent of the subscriber and that consent

1 had not been revoked as of the time of the
2 call;

3 “(ii) the person queried the database
4 before making the call, the query did not
5 show the number as being reassigned from
6 the subscriber, and the person made the
7 call within a reasonable period of time (as
8 defined by the Commission) after the
9 query;

10 “(iii) the query did not show the num-
11 ber as being reassigned from the sub-
12 scriber as a result of an inaccuracy on the
13 part of—

14 “(I) the Commission or other en-
15 tity administering the database; or

16 “(II) a covered provider in reas-
17 signing the number or in making a re-
18 port to the database about the reas-
19 signment of the number;

20 “(iv) the person did not otherwise
21 know or have any reason to know that the
22 number had been reassigned from the sub-
23 scriber;

24 “(v) the call would have complied with
25 the requirements of this subsection but for

1 the lack of the prior express consent of the
2 called party; and

3 “(vi) the person—

4 “(I) took affirmative steps to cor-
5 rect the internal records of the person
6 with respect to the number; and

7 “(II) reported to the database
8 any inaccuracy that the person discov-
9 ered with respect to the number in the
10 database.

11 “(D) RULE OF CONSTRUCTION.—Nothing
12 in this paragraph shall be construed to preclude
13 the Commission from contracting with a private
14 entity to provide the database required under
15 subparagraph (A).

16 “(E) COVERED PROVIDER DEFINED.—In
17 this paragraph, the term ‘covered provider’
18 means a provider of voice service or text mes-
19 saging service (as those terms are defined in
20 subsection (e)(8)).”.

21 (b) CALLED PARTY DEFINED.—

22 (1) IN GENERAL.—Section 227(a) of the Com-
23 munications Act of 1934 (47 U.S.C. 227(a)) is
24 amended by adding at the end the following:

1 “(6) The term ‘called party’ means, with re-
2 spect to a call, the current subscriber of the tele-
3 phone number to which the call is made, determined
4 at the time when the call is made.”.

5 (2) CONFORMING AMENDMENTS.—Section
6 227(d)(3)(B) of the Communications Act of 1934
7 (47 U.S.C. 227(d)(3)(B)) is amended—

8 (A) by striking “called party’s line” each
9 place it appears and inserting “telephone line
10 called”; and

11 (B) by striking “called party has hung up”
12 and inserting “answering party has hung up”.

13 (c) DEADLINE FOR REGULATIONS AND ESTABLISH-
14 MENT OF DATABASE.—Not later than 1 year after the
15 date of the enactment of this Act, the Federal Commu-
16 nications Commission shall—

17 (1) prescribe regulations to implement the
18 amendments made by this section; and

19 (2) establish the database required by such
20 amendments.

21 (d) TRANSITIONAL RULE REGARDING DEFINITION
22 OF COVERED PROVIDER.—Subsection (b)(4)(E) of section
23 227 of the Communications Act of 1934 (47 U.S.C. 227),
24 as added by subsection (a) of this section, shall apply be-
25 fore the effective date of the amendment made to sub-

1 section (e)(8) of such section 227 by section 503(a)(2)(C)
 2 of division P of the Consolidated Appropriations Act, 2018
 3 (Public Law 115–141) as if that amendment was already
 4 in effect.

5 **SEC. 5. ANNUAL REPORT TO CONGRESS.**

6 Section 227 of the Communications Act of 1934 (47
 7 U.S.C. 227) is amended by adding at the end the fol-
 8 lowing:

9 “(i) ANNUAL REPORT TO CONGRESS ON ROBOCALLS
 10 AND TRANSMISSION OF MISLEADING OR INACCURATE
 11 CALLER IDENTIFICATION INFORMATION.—

12 “(1) REPORT REQUIRED.—Not later than 1
 13 year after the date of enactment of the Stopping
 14 Bad Robocalls Act, and annually thereafter, the
 15 Commission, after consultation with the Federal
 16 Trade Commission, shall submit to Congress a re-
 17 port regarding enforcement by the Commission of
 18 subsections (b), (d), and (e) during the preceding
 19 calendar year.

20 “(2) MATTERS FOR INCLUSION.—Each report
 21 required under paragraph (1) shall include the fol-
 22 lowing:

23 “(A) The number of complaints received by
 24 the Commission during each of the preceding 5

1 calendar years, for each of the following cat-
2 egories:

3 “(i) Complaints alleging that a con-
4 sumer received a robocall in violation of
5 subsection (b).

6 “(ii) Complaints alleging that a con-
7 sumer received a robocall in violation of
8 the standards prescribed under subsection
9 (d).

10 “(iii) Complaints alleging that a con-
11 sumer received a call in connection with
12 which misleading or inaccurate caller iden-
13 tification information was transmitted in
14 violation of subsection (e).

15 “(B) The number of citations issued by the
16 Commission under section 503(b) during the
17 preceding calendar year to enforce subsection
18 (d), and details of each citation.

19 “(C) The number of notices of apparent li-
20 ability issued by the Commission under section
21 503(b) during the preceding calendar year to
22 enforce subsections (b), (d), and (e), and details
23 of each notice, including the proposed forfeiture
24 amount.

1 “(D) The number of final orders imposing
2 forfeiture penalties issued under section 503(b)
3 during the preceding calendar year to enforce
4 subsections (b), (d), and (e), and details of each
5 order, including the total forfeiture imposed.

6 “(E) The amount of forfeiture penalties or
7 criminal fines collected, during the preceding
8 calendar year, by the Commission or the Attor-
9 ney General for violations of subsections (b),
10 (d), and (e), and details of each case in which
11 a forfeiture penalty or criminal fine was col-
12 lected.

13 “(F) Proposals for reducing by half the
14 number of calls made in violation of subsections
15 (b), (d), and (e).

16 “(G) An analysis of the contribution by
17 providers of interconnected VoIP service and
18 non-interconnected VoIP service that discount
19 high-volume, short-duration calls to the total
20 number of robocalls, and recommendations on
21 how to address that contribution in order to de-
22 crease the total number of robocalls.”.

1 **SEC. 6. REGULATIONS RELATING TO CALLER IDENTIFICA-**
2 **TION INFORMATION AUTHENTICATION**
3 **STANDARDS.**

4 (a) IN GENERAL.—Not later than 1 year after the
5 date of enactment of this Act, the Commission shall pre-
6 scribe regulations in the Call Authentication Trust Anchor
7 proceeding (WC Docket No. 17–97).

8 (b) REQUIREMENTS FOR CALLER IDENTIFICATION
9 INFORMATION AUTHENTICATION TECHNOLOGY.—

10 (1) IN GENERAL.—The regulations required
11 under subsection (a) shall require providers of voice
12 service to implement, by a date specified by the
13 Commission, caller identification information au-
14 thentication technology that has the ability to—

15 (A) verify that any caller identification in-
16 formation transmitted in connection with a call
17 (including a call originating outside the United
18 States if the recipient is within the United
19 States) is—

20 (i) accurate; or

21 (ii) exempted under the regulations
22 promulgated under paragraph (3) of sec-
23 tion 227(e) of the Communications Act of
24 1934 (47 U.S.C. 227(e)) from the prohibi-
25 tion under paragraph (1) of that section;
26 and

1 (B) prevent a subscriber from receiving a
2 call unless—

3 (i) any caller identification informa-
4 tion transmitted in connection with the call
5 is verified as described in subparagraph
6 (A); or

7 (ii) no caller identification information
8 is transmitted in connection with the call,
9 whether because a person has blocked the
10 capability of a caller identification service
11 to transmit the information in accordance
12 with paragraph (2) of section 227(e) of the
13 Communications Act of 1934 (47 U.S.C.
14 227(e)) or otherwise.

15 (2) UNBLOCKING REQUESTS.—The regulations
16 required under subsection (a) shall require a pro-
17 vider of voice service to—

18 (A) accept a request from a subscriber of
19 the service, a calling party, or another provider
20 of voice service for the caller identification in-
21 formation authentication technology required
22 under paragraph (1) of this subsection to allow
23 the completion of a call in connection with
24 which caller identification information is trans-

1 mitted but not verified as described in subpara-
2 graph (A) of that paragraph; and

3 (B) if the request described in subpara-
4 graph (A) meets criteria prescribed by the Com-
5 mission in those regulations, grant the request.

6 (3) NO ADDITIONAL COST TO SUBSCRIBERS.—

7 The regulations required under subsection (a) shall
8 prohibit providers of voice service from making any
9 additional charge to subscribers for the caller identi-
10 fication information authentication technology re-
11 quired under paragraph (1) of this subsection.

12 (c) DEFINITIONS.—In this section:

13 (1) CALLER IDENTIFICATION INFORMATION.—

14 The term “caller identification information” has the
15 meaning given the term in section 227(e)(8) of the
16 Communications Act of 1934 (47 U.S.C. 227(e)(8)).

17 (2) CALLER IDENTIFICATION SERVICE.—The

18 term “caller identification service” has the meaning
19 given the term in section 227(e)(8) of the Commu-
20 nications Act of 1934 (47 U.S.C. 227(e)(8)).

21 (3) COMMISSION.—The term “Commission”

22 means the Federal Communications Commission.

23 (4) VOICE SERVICE.—

24 (A) IN GENERAL.—The term “voice serv-
25 ice” has the meaning given the term in section

1 227(e)(8) of the Communications Act of 1934
2 (47 U.S.C. 227(e)(8)).

3 (B) TRANSITION RULE.—Subparagraph
4 (A) shall apply before the effective date of the
5 amendment made to the section described in
6 that subparagraph by section 503(a)(2)(C) of
7 division P of the Consolidated Appropriations
8 Act, 2018 (Public Law 115–141) as if the
9 amendment was already in effect.

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