

# Calendar No. 519

110TH CONGRESS  
1ST SESSION

# S. 704

[Report No. 110-234]

To amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2007

Mr. NELSON of Florida (for himself, Ms. SNOWE, Mrs. MCCASKILL, Mr. STEVENS, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 5, 2007

Reported by Mr. INOUE, with an amendment

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

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## A BILL

To amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

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 “~~Truth in Caller ID~~  
5 ~~Act of 2007~~”.

1 **SEC. 2. PROHIBITION REGARDING MANIPULATION OF**  
 2 **CALLER IDENTIFICATION INFORMATION.**

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

5 (1) by redesignating subsections (e), (f), and  
 6 (g) as subsections (f), (g), and (h), respectively; and

7 (2) by inserting after subsection (d) the fol-  
 8 lowing new subsection:

9 “(e) **PROHIBITION ON PROVISION OF INACCURATE**  
 10 **CALLER IDENTIFICATION INFORMATION.—**

11 “(1) **IN GENERAL.—**It shall be unlawful for any  
 12 person within the United States, in connection with  
 13 any telecommunications service or IP-enabled voice  
 14 service, to cause any caller identification service to  
 15 transmit misleading or inaccurate caller identifica-  
 16 tion information, unless such transmission is ex-  
 17 empted pursuant to paragraph (3)(B).

18 “(2) **PROTECTION FOR BLOCKING CALLER**  
 19 **IDENTIFICATION INFORMATION.—**Nothing in this  
 20 subsection may be construed to prevent or restrict  
 21 any person from blocking the capability of any caller  
 22 identification service to transmit caller identification  
 23 information.

24 “(3) **REGULATIONS.—**

25 “(A) **IN GENERAL.—**Not later than 6  
 26 months after the enactment of this subsection,

1 the Commission shall prescribe regulations to  
2 implement this subsection.

3 “(B) CONTENT OF REGULATIONS.—

4 “(i) IN GENERAL.—The regulations  
5 required under subparagraph (A) shall in-  
6 clude such exemptions from the prohibition  
7 under paragraph (1) as the Commission  
8 determines appropriate.

9 “(ii) SPECIFIC EXEMPTION FOR LAW  
10 ENFORCEMENT AGENCIES OR COURT OR-  
11 DERS.—The regulations required under  
12 subparagraph (A) shall exempt from the  
13 prohibition under paragraph (1) trans-  
14 missions in connection with—

15 “(I) any authorized activity of a  
16 law enforcement agency; or

17 “(II) a court order that specifi-  
18 cally authorizes the use of caller iden-  
19 tification manipulation.

20 “(4) REPORT.—Not later than 6 months after  
21 the enactment of this subsection, the Commission  
22 shall report to Congress whether additional legisla-  
23 tion is necessary to prohibit the provision of inae-  
24 curate caller identification information in tech-  
25 nologies that are successor or replacement tech-

1 nologies to telecommunications service or IP-enabled  
2 voice service.

3 ~~“(5) PENALTIES.—~~

4 ~~“(A) CIVIL FORFEITURE.—~~

5 ~~“(i) IN GENERAL.—Any person that is~~  
6 ~~determined by the Commission, in accord-~~  
7 ~~ance with paragraphs (3) and (4) of sec-~~  
8 ~~tion 503(b), to have violated this sub-~~  
9 ~~section shall be liable to the United States~~  
10 ~~for a forfeiture penalty. A forfeiture pen-~~  
11 ~~alty under this paragraph shall be in addi-~~  
12 ~~tion to any other penalty provided for by~~  
13 ~~this Act. The amount of the forfeiture pen-~~  
14 ~~alty determined under this paragraph shall~~  
15 ~~not exceed \$10,000 for each violation, or 3~~  
16 ~~times that amount for each day of a con-~~  
17 ~~tinuing violation, except that the amount~~  
18 ~~assessed for any continuing violation shall~~  
19 ~~not exceed a total of \$1,000,000 for any~~  
20 ~~single act or failure to act.~~

21 ~~“(ii) RECOVERY.—Any forfeiture pen-~~  
22 ~~alty determined under clause (i) shall be~~  
23 ~~recoverable pursuant to section 504(a).~~

24 ~~“(iii) PROCEDURE.—No forfeiture li-~~  
25 ~~ability shall be determined under clause (i)~~

1           against any person unless such person re-  
 2           ceives the notice required by section  
 3           503(b)(3) or section 503(b)(4).

4           “(iv) 2-YEAR STATUTE OF LIMITA-  
 5           TIONS.—No forfeiture penalty shall be de-  
 6           termined or imposed against any person  
 7           under clause (i) if the violation charged oc-  
 8           curred more than 2 years prior to the date  
 9           of issuance of the required notice or notice  
 10          or apparent liability.

11          “(B) CRIMINAL FINE.—Any person who  
 12          willfully and knowingly violates this subsection  
 13          shall upon conviction thereof be fined not more  
 14          than \$10,000 for each violation, or 3 times that  
 15          amount for each day of a continuing violation,  
 16          in lieu of the fine provided by section 501 for  
 17          such a violation. This subparagraph does not  
 18          supersede the provisions of section 501 relating  
 19          to imprisonment or the imposition of a penalty  
 20          of both fine and imprisonment.

21          “(6) ENFORCEMENT BY STATES.—

22          “(A) IN GENERAL.—The chief legal officer  
 23          of a State, or any other State officer authorized  
 24          by law to bring actions on behalf of the resi-  
 25          dents of a State, may bring a civil action, as

1           parens patriae, on behalf of the residents of  
2           that State in an appropriate district court of  
3           the United States to enforce this subsection or  
4           to impose the civil penalties for violation of this  
5           subsection, whenever the chief legal officer or  
6           other State officer has reason to believe that  
7           the interests of the residents of the State have  
8           been or are being threatened or adversely af-  
9           fected by a violation of this subsection or a reg-  
10          ulation under this subsection.

11           “(B) NOTICE.—The chief legal officer or  
12          other State officer shall serve written notice on  
13          the Commission of any civil action under sub-  
14          paragraph (A) prior to initiating such civil ac-  
15          tion. The notice shall include a copy of the com-  
16          plaint to be filed to initiate such civil action, ex-  
17          cept that if it is not feasible for the State to  
18          provide such prior notice, the State shall pro-  
19          vide such notice immediately upon instituting  
20          such civil action.

21           “(C) AUTHORITY TO INTERVENE.—Upon  
22          receiving the notice required by subparagraph  
23          (B), the Commission may intervene in such civil  
24          action and upon intervening—

1           “(i) be heard on all matters arising in  
2           such civil action; and

3           “(ii) file petitions for appeal of a deci-  
4           sion in such civil action.

5           “(D) CONSTRUCTION.—For purposes of  
6           bringing any civil action under subparagraph  
7           (A), nothing in this paragraph shall prevent the  
8           chief legal officer or other State officer from ex-  
9           ercising the powers conferred on that officer by  
10          the laws of such State to conduct investigations  
11          or to administer oaths or affirmations or to  
12          compel the attendance of witnesses or the pro-  
13          duction of documentary and other evidence.

14          “(E) VENUE; SERVICE OR PROCESS.—

15           “(i) VENUE.—An action brought  
16           under subparagraph (A) shall be brought  
17           in a district court of the United States  
18           that meets applicable requirements relating  
19           to venue under section 1391 of title 28,  
20           United States Code.

21           “(ii) SERVICE OF PROCESS.—In an  
22           action brought under subparagraph (A)—

23                   “(I) process may be served with-  
24                   out regard to the territorial limits of

1 the district or of the State in which  
2 the action is instituted; and

3 “(H) a person who participated  
4 in an alleged violation that is being  
5 litigated in the civil action may be  
6 joined in the civil action without re-  
7 gard to the residence of the person.

8 “(F) LIMITATION ON STATE ACTION  
9 WHILE FEDERAL ACTION IS PENDING.—If the  
10 Commission has instituted an enforcement ac-  
11 tion or proceeding for violation of this sub-  
12 section, the chief legal officer or other State of-  
13 ficer of the State in which the violation oc-  
14 curred may not bring an action under this sec-  
15 tion during the pendency of the proceeding  
16 against any person with respect to whom the  
17 Commission has instituted the proceeding.

18 “(7) DEFINITIONS.—For purposes of this sub-  
19 section:

20 “(A) CALLER IDENTIFICATION INFORMA-  
21 TION.—The term ‘caller identification informa-  
22 tion’ means information provided by a caller  
23 identification service regarding the telephone  
24 number of, or other information regarding the

1 origination of, a call made using a telecommuni-  
2 cations service or IP-enabled voice service.

3 “(B) ~~CALLER IDENTIFICATION SERVICE.~~—

4 The term ‘caller identification service’ means  
5 any service or device designed to provide the  
6 user of the service or device with the telephone  
7 number of, or other information regarding the  
8 origination of, a call made using a telecommuni-  
9 cations service or IP-enabled voice service. Such  
10 term includes automatic number identification  
11 services.

12 “(C) ~~IP-ENABLED VOICE SERVICE.~~—The  
13 term ‘IP-enabled voice service’ means the provi-  
14 sion of real-time 2-way voice communications  
15 offered to the public, or such classes of users as  
16 to be effectively available to the public, trans-  
17 mitted through customer premises equipment  
18 using TCP/IP protocol, or a successor protocol,  
19 for a fee (whether part of a bundle of services  
20 or separately) with interconnection capability  
21 such that the service can originate traffic to, or  
22 terminate traffic from, the public switched tele-  
23 phone network.

24 “(S) ~~LIMITATION.~~—Notwithstanding any other  
25 provision of this section, subsection (f) shall not

1 apply to this subsection or to the regulations under  
2 this subsection.”

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Truth in Caller ID Act*  
5 *of 2007”.*

6 **SEC. 2. PROHIBITION REGARDING MANIPULATION OF CALL-**  
7 **ER IDENTIFICATION INFORMATION.**

8 *Section 227 of the Communications Act of 1934 (47*  
9 *U.S.C. 227) is amended—*

10 *(1) by redesignating subsections (e), (f), and (g)*  
11 *as subsections (f), (g), and (h), respectively; and*

12 *(2) by inserting after subsection (d) the following*  
13 *new subsection:*

14 *“(e) PROHIBITION ON PROVISION OF INACCURATE*  
15 *CALLER IDENTIFICATION INFORMATION.—*

16 *“(1) IN GENERAL.—It shall be unlawful for any*  
17 *person within the United States, in connection with*  
18 *any telecommunications service or IP-enabled voice*  
19 *service, to cause any caller identification service to*  
20 *knowingly transmit misleading or inaccurate caller*  
21 *identification information with the intent to defraud,*  
22 *cause harm, or wrongfully obtain anything of value,*  
23 *unless such transmission is exempted pursuant to*  
24 *paragraph (3)(B).*

1           “(2) *PROTECTION FOR BLOCKING CALLER IDENTIFICATION INFORMATION.*—*Nothing in this subsection may be construed to prevent or restrict any*  
2           *person from blocking the capability of any caller*  
3           *identification service to transmit caller identification*  
4           *information.*

7           “(3) *REGULATIONS.*—

8           “(A) *IN GENERAL.*—*Not later than 6*  
9           *months after the date of enactment of the Truth*  
10           *in Caller ID Act of 2007, the Commission shall*  
11           *prescribe regulations to implement this sub-*  
12           *section.*

13           “(B) *CONTENT OF REGULATIONS.*—

14           “(i) *IN GENERAL.*—*The regulations re-*  
15           *quired under subparagraph (A) shall in-*  
16           *clude such exemptions from the prohibition*  
17           *under paragraph (1) as the Commission de-*  
18           *termines is appropriate.*

19           “(ii) *SPECIFIC EXEMPTION FOR LAW*  
20           *ENFORCEMENT AGENCIES OR COURT OR-*  
21           *DERS.*—*The regulations required under sub-*  
22           *paragraph (A) shall exempt from the prohi-*  
23           *bition under paragraph (1) transmissions*  
24           *in connection with—*

1                   “(I) any authorized activity of a  
2                   law enforcement agency; or

3                   “(II) a court order that specifi-  
4                   cally authorizes the use of caller identi-  
5                   fication manipulation.

6                   “(iii) *EFFECT ON OTHER LAWS.*—  
7                   *Nothing in this subsection shall be construed*  
8                   *to authorize or prohibit any investigative,*  
9                   *protective, or intelligence activities per-*  
10                  *formed in connection with official duties*  
11                  *and in accordance with all applicable laws,*  
12                  *by a law enforcement agency of the United*  
13                  *States, a State, or a political subdivision of*  
14                  *a State, or by an intelligence agency of the*  
15                  *United States.*

16                  “(4) *REPORT.*—*Not later than 6 months after the*  
17                  *enactment of the Truth in Caller ID Act of 2007, the*  
18                  *Commission shall report to Congress whether addi-*  
19                  *tional legislation is necessary to prohibit the provi-*  
20                  *sion of inaccurate caller identification information in*  
21                  *technologies that are successor or replacement tech-*  
22                  *nologies to telecommunications service or IP-enabled*  
23                  *voice service.*

24                  “(5) *PENALTIES.*—

25                  “(A) *CIVIL FORFEITURE.*—

1           “(i) *IN GENERAL.*—Any person that is  
2           determined by the Commission, in accord-  
3           ance with paragraphs (3) and (4) of section  
4           503(b), to have violated this subsection shall  
5           be liable to the United States for a forfeiture  
6           penalty. A forfeiture penalty under this  
7           paragraph shall be in addition to any other  
8           penalty provided for by this Act. The  
9           amount of the forfeiture penalty determined  
10          under this paragraph shall not exceed  
11          \$10,000 for each violation, or 3 times that  
12          amount for each day of a continuing viola-  
13          tion, except that the amount assessed for  
14          any continuing violation shall not exceed a  
15          total of \$1,000,000 for any single act or  
16          failure to act.

17          “(ii) *RECOVERY.*—Any forfeiture pen-  
18          alty determined under clause (i) shall be re-  
19          coverable pursuant to section 504(a).

20          “(iii) *PROCEDURE.*—No forfeiture li-  
21          ability shall be determined under clause (i)  
22          against any person unless such person re-  
23          ceives the notice required by section  
24          503(b)(3) or section 503(b)(4).

1           “(iv) 2-YEAR STATUTE OF LIMITA-  
2           TIONS.—No forfeiture penalty shall be deter-  
3           mined or imposed against any person under  
4           clause (i) if the violation charged occurred  
5           more than 2 years prior to the date of  
6           issuance of the required notice or notice or  
7           apparent liability.

8           “(B) CRIMINAL FINE.—Any person who  
9           willfully and knowingly violates this subsection  
10          shall upon conviction thereof be fined not more  
11          than \$10,000 for each violation, or 3 times that  
12          amount for each day of a continuing violation,  
13          in lieu of the fine provided by section 501 for  
14          such a violation. This subparagraph does not su-  
15          persede the provisions of section 501 relating to  
16          imprisonment or the imposition of a penalty of  
17          both fine and imprisonment.

18          “(6) ENFORCEMENT BY STATES.—

19                 “(A) IN GENERAL.—The chief legal officer of  
20                 a State, or any other State officer authorized by  
21                 law to bring actions on behalf of the residents of  
22                 a State, may bring a civil action, as *parens*  
23                 *patriae*, on behalf of the residents of that State  
24                 in an appropriate district court of the United  
25                 States to enforce this subsection or to impose the

1           *civil penalties for violation of this subsection,*  
2           *whenever the chief legal officer or other State of-*  
3           *ficer has reason to believe that the interests of the*  
4           *residents of the State have been or are being*  
5           *threatened or adversely affected by a violation of*  
6           *this subsection or a regulation under this sub-*  
7           *section.*

8           “(B) NOTICE.—*The chief legal officer or*  
9           *other State officer shall serve written notice on*  
10          *the Commission of any civil action under sub-*  
11          *paragraph (A) prior to initiating such civil ac-*  
12          *tion. The notice shall include a copy of the com-*  
13          *plaint to be filed to initiate such civil action, ex-*  
14          *cept that if it is not feasible for the State to pro-*  
15          *vide such prior notice, the State shall provide*  
16          *such notice immediately upon instituting such*  
17          *civil action.*

18          “(C) AUTHORITY TO INTERVENE.—*Upon re-*  
19          *ceiving the notice required by subparagraph (B),*  
20          *the Commission shall have the right—*

21                   “(i) *to intervene in the action;*

22                   “(ii) *upon so intervening, to be heard*  
23                   *on all matters arising therein; and*

24                   “(iii) *to file petitions for appeal.*

1           “(D) *CONSTRUCTION.*—*For purposes of*  
2           *bringing any civil action under subparagraph*  
3           *(A), nothing in this paragraph shall prevent the*  
4           *chief legal officer or other State officer from exer-*  
5           *cising the powers conferred on that officer by the*  
6           *laws of such State to conduct investigations or to*  
7           *administer oaths or affirmations or to compel*  
8           *the attendance of witnesses or the production of*  
9           *documentary and other evidence.*

10           “(E) *VENUE; SERVICE OR PROCESS.*—

11           “(i) *VENUE.*—*An action brought under*  
12           *subparagraph (A) shall be brought in a dis-*  
13           *trict court of the United States that meets*  
14           *applicable requirements relating to venue*  
15           *under section 1391 of title 28, United States*  
16           *Code.*

17           “(ii) *SERVICE OF PROCESS.*—*In an ac-*  
18           *tion brought under subparagraph (A)—*

19                   “(I) *process may be served with-*  
20                   *out regard to the territorial limits of*  
21                   *the district or of the State in which the*  
22                   *action is instituted; and*

23                   “(II) *a person who participated*  
24                   *in an alleged violation that is being*  
25                   *litigated in the civil action may be*

1                    *joined in the civil action without re-*  
2                    *gard to the residence of the person.*

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

5                    “(A) *CALLER IDENTIFICATION INFORMA-*  
6                    *TION.—The term ‘caller identification informa-*  
7                    *tion’ means information provided by a caller*  
8                    *identification service regarding the telephone*  
9                    *number of, or other information regarding the*  
10                   *origination of, a call made using a telecommuni-*  
11                   *cations service or IP-enabled voice service.*

12                   “(B) *CALLER IDENTIFICATION SERVICE.—*  
13                   *The term ‘caller identification service’ means*  
14                   *any service or device designed to provide the user*  
15                   *of the service or device with the telephone number*  
16                   *of, or other information regarding the origina-*  
17                   *tion of, a call made using a telecommunications*  
18                   *service or IP-enabled voice service. Such term in-*  
19                   *cludes automatic number identification services.*

20                   “(C) *IP-ENABLED VOICE SERVICE.—The*  
21                   *term ‘IP-enabled voice service’ has the meaning*  
22                   *given that term by section 9.3 of the Commis-*  
23                   *sion’s regulations (47 C.F.R. 9.3), as those regu-*  
24                   *lations may be amended by the Commission from*  
25                   *time to time.*

1           “(8) *LIMITATION.*—*Notwithstanding any other*  
2           *provision of this section, subsection (f) shall not apply*  
3           *to this subsection or to the regulations under this sub-*  
4           *section.*”



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110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 704**

[Report No. 110-234]

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**A BILL**

To amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

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DECEMBER 5, 2007

Reported with an amendment