

This is a comparison of the House and Senate versions of the Truth in Caller ID Act of the 111th Congress. The bills used to create this document are the engrossed versions of H.R. 1258 and S. 30. H.R. 1258 was passed by the House on 4/14/2010. S. 30 was passed by the Senate on 2/24/2010.

Text that is unique to the House version is in blue. Text that is unique to the Senate version is in red. Notes I've added for clarification are in green. As can be seen, the bills differ substantially. The House version is much shorter and leaves out much of the details regarding penalties and method of enforcement by the states. It also seems to simplify the law enforcement and intelligence gathering exemptions.

For further information and Congressional discussion regarding the bills themselves see S. Rept. 111-96, H. Rept. 111-461, 155 CR S173-S174, 156 CR S713-S714, and 156 CR H2522-H2534.

To amend the Communications Act of 1934 to prohibit manipulation of caller ID identification information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

## SECTION 1. SHORT TITLE.

This Act may be cited as the `Truth in Caller ID Act of 2009 2010'.

## SEC. 2. PROHIBITION REGARDING MANIPULATION OF CALLER IDENTIFICATION INFORMATION.

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

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

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

`(e) Prohibition on Provision of Deceptive Caller ID Information-

`(1) IN GENERAL- It shall be unlawful for any person within the United States, in connection with any real time voice communications telecommunications service or IP-enabled voice service, regardless of the technology or network utilized, to cause any caller ID identification service to knowingly transmit misleading or inaccurate caller ID identification information, with the intent to defraud, cause harm, or wrongfully obtain anything of value, or deceive, unless such transmission is exempted pursuant to paragraph (3)(B).

`(2) PROTECTION FOR BLOCKING CALLER ID IDENTIFICATION INFORMATION- Nothing in this subsection may be construed to prevent or restrict any person from blocking the capability of any caller ID identification service to transmit caller ID identification information.

`(3) REGULATIONS-

`(A) DEADLINE IN GENERAL - Not later than 6 months after the date of enactment of this subsection the Truth in Caller ID Act of 2009, the Commission shall prescribe regulations to implement this subsection.

`(B) CONSIDERATION OF RELATED REGULATIONS- In conducting the proceeding to prescribe the regulations required by subparagraph (A), the Commission shall examine whether the regulations under subsection (b)(2)(B) should be revised to require calls that are not made for a commercial purpose to residential telephone lines using an artificial or prerecorded voice to deliver a message to transmit caller ID information that is not misleading or inaccurate.

`(B) CONTENT OF REGULATIONS-

`(i) IN GENERAL- The regulations required under subparagraph (A) shall include such exemptions from the prohibition under paragraph (1) as the Commission determines is appropriate.

`(ii) SPECIFIC EXEMPTION FOR LAW ENFORCEMENT AGENCIES OR COURT ORDERS- The regulations required under subparagraph (A) shall exempt from the prohibition under paragraph (1) transmissions in connection with--

`(I) any authorized activity of a law enforcement agency; or

`(II) a court order that specifically authorizes the use of caller identification manipulation.

[but see (4) below in House version for similar intent]

`(4) LAW ENFORCEMENT EXCEPTION- This section does not prohibit lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of title 18, United States Code.

`(4) REPORT- Not later than 6 months after the enactment of the Truth in Caller ID Act of 2009, the Commission shall report to Congress whether additional legislation is necessary to prohibit the provision of inaccurate caller identification information in technologies that are successor or replacement technologies to telecommunications service or IP-enabled voice service.

`(5) SAVINGS PROVISION- Except as provided for in paragraph (3)(B), nothing in this subsection may be construed to affect or alter the application of the Commission's regulations regarding the requirements for transmission of caller ID information, issued pursuant to the Telephone Consumer Protection Act of 1991 (Public Law 102-243) and the amendments made by such Act.

`(5) PENALTIES-

`(A) CIVIL FORFEITURE-

`(i) IN GENERAL- Any person that is determined by the Commission, in accordance with paragraphs (3) and (4) of section 503(b), to have violated this subsection shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this paragraph shall be in addition to any other penalty provided for by this Act. The amount of the forfeiture penalty determined under this paragraph shall not exceed \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,000,000 for any single act or failure to act.

`(ii) RECOVERY- Any forfeiture penalty determined under clause (i) shall be recoverable pursuant to section 504(a).

`(iii) PROCEDURE- No forfeiture liability shall be determined under clause (i) against any person unless such person receives the notice required by section 503(b)(3) or section 503(b)(4).

`(iv) 2-year STATUTE OF LIMITATIONS- No forfeiture penalty shall be determined or imposed against any person under clause (i) if the violation charged occurred more than 2 years prior to the date of issuance of the required notice or notice or apparent liability.

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

`(6) ENFORCEMENT BY STATES-

`(A) IN GENERAL- The chief legal officer of a State, or any other State officer authorized by law to bring actions on behalf of the residents of a State, may bring a civil action, as parens patriae, on behalf of the residents of that State in an appropriate district court of the United States to enforce this subsection or to impose the civil penalties for violation of this subsection, whenever the chief legal officer or other State officer has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this subsection or a regulation under this subsection.

`(B) NOTICE- The chief legal officer or other State officer shall serve written notice on the Commission of any civil action under subparagraph (A) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

`(C) AUTHORITY TO INTERVENE- Upon receiving the notice required by subparagraph (B), the Commission shall have the right--

`(i) to intervene in the action;

`(ii) upon so intervening, to be heard on all matters arising therein; and

`(iii) to file petitions for appeal.

`(D) CONSTRUCTION- For purposes of bringing any civil action under subparagraph (A), nothing in this paragraph shall prevent the chief legal officer or other State officer from exercising the powers conferred on that officer by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

`(E) VENUE; SERVICE OR PROCESS-

`(i) VENUE- An action brought under subparagraph (A) shall be brought in a district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

`(ii) SERVICE OF PROCESS- In an action brought under subparagraph (A)--

`(I) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

`(II) a person who participated in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

`(7) Effect on other laws- This subsection does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

[but see (4) above in House version for similar intent]

`(6) (8) DEFINITIONS- For purposes of this subsection:

`(A) CALLER ID IDENTIFICATION INFORMATION- The term 'caller ID identification information' means information provided to an end user by a caller ID identification service regarding the name or the telephone number of the caller or other information regarding the origination of a call made using any real time voice communications service, regardless of the technology or network utilized a telecommunications service or IP-enabled voice service. Such term includes automatic number identification services.

`(B) CALLER ID IDENTIFICATION SERVICE- The term 'caller ID identification service' means any service or device designed to provide the user of the service or device with the name or the telephone number of the caller or other information regarding the origination of a call made using any real time voice communications service, regardless of the technology or network utilized a telecommunications service or IP-enabled voice service. Such term includes automatic number identification services.

`(C) IP-ENABLED VOICE SERVICE- The term 'IP-enabled voice service' has the meaning given that term by section 9.3 of the Commission's regulations (47 C.F.R. 9.3), as those regulations may be amended by the Commission from time to time.

`(9) LIMITATION- Notwithstanding any other provision of this section, subsection (f) shall not apply to this subsection or to the regulations under this subsection.'. [47 U.S.C. 227(f) as redesignated by Sec. 2(1) of this bill relates to state law not being preempted in places where it is more restrictive than federal law.]