

113TH CONGRESS
2D SESSION

S. 1959

To criminalize the knowing use of commercial robocalls without the prior express written consent of the recipient, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 27, 2014

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To criminalize the knowing use of commercial robocalls without the prior express written consent of the recipient, 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 “Quell Unnecessary,
5 Intentional, and Encroaching Telephone Calls Act of
6 2014” or the “QUIET Act”.

7 **SEC. 2. COMMERCIAL ROBOCALLS.**

8 (a) IN GENERAL.—Chapter 113A of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

1 **“§ 2328. Commercial robocalls**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘automatic telephone dialing sys-
4 tem’ has the meaning given the term in section
5 227(a) of the Communications Act of 1934 (47
6 U.S.C. 227(a));

7 “(2) the term ‘commercial robocall’ means a
8 telephone call made for the purpose of soliciting or
9 encouraging the purchase or rental of, or investment
10 or enrollment in, property, goods, or services, using
11 an automatic telephone dialing system or an artifi-
12 cial or prerecorded voice;

13 “(3) the term ‘prior express written consent’
14 means, with respect to the recipient of a commercial
15 robocall, an agreement in writing that—

16 “(A) includes the signature of the recipi-
17 ent;

18 “(B) clearly authorizes the seller to initiate
19 or cause to be initiated to the recipient a com-
20 mercial robocall;

21 “(C) includes the telephone number to
22 which the recipient authorizes the commercial
23 robocall to be initiated; and

24 “(D) includes a clear and conspicuous dis-
25 closure informing the recipient that—

1 “(i) by executing the agreement, the
2 recipient authorizes the seller to initiate or
3 cause to be initiated to the recipient a
4 commercial robocall; and

5 “(ii) the recipient is not required to
6 sign the agreement, directly or indirectly,
7 or agree to enter into the agreement as a
8 condition of purchasing, renting, investing
9 in, or enrolling in any property, goods, or
10 services;

11 “(4) the term ‘seller’ means the person on
12 whose behalf a commercial robocall is initiated; and

13 “(5) the term ‘signature’ includes an electronic
14 or digital form of signature, to the extent that the
15 form of signature is recognized as a valid signature
16 under applicable Federal law or State contract law.

17 “(b) PROHIBITION.—

18 “(1) IN GENERAL.—It shall be unlawful for a
19 person within the United States, or a person outside
20 the United States if the recipient is within the
21 United States, to knowingly initiate a commercial
22 robocall without the prior express written consent of
23 the recipient.

24 “(2) EXEMPTIONS.—Paragraph (1) shall not
25 apply to a telephone call—

1 “(A) that is made for emergency purposes;

2 “(B) that is made by or on behalf of a tax-
3 exempt nonprofit organization;

4 “(C)(i) that is made by a provider of com-
5 mercial mobile radio service, as that term is de-
6 fined in section 20.3 of title 47, Code of Fed-
7 eral Regulations, or any successor thereto, to
8 subscribers of the service; and

9 “(ii) for which the subscribers described in
10 clause (i) are not charged; or

11 “(D) that delivers a message relating to
12 health care made by, or on behalf of, a covered
13 entity or a business associate of a covered enti-
14 ty, as those terms are defined in section
15 160.103 of title 45, Code of Federal Regula-
16 tions, or any successor thereto.

17 “(c) CRIMINAL PENALTIES.—Any person who vio-
18 lates this section shall be fined not more than \$20,000
19 per violation, imprisoned for not more than 10 years, or
20 both.”.

21 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
22 Part I of title 18, United States Code, is amended—

23 (1) in the chapter analysis, by striking the item
24 relating to chapter 113A and inserting the following:

“113A. Telemarketing 2325”;

25 and

1 (2) in chapter 113A—

2 (A) in the chapter heading, by striking

3 “**FRAUD**”; and

4 (B) in the table of sections, by adding at

5 the end the following:

“2328. Commercial robocalls.”.

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