

112TH CONGRESS  
1ST SESSION

# H. R. 3035

To amend the Communications Act of 1934 to permit informational calls to mobile telephone numbers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2011

Mr. TERRY (for himself and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Communications Act of 1934 to permit informational calls to mobile telephone numbers, 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 “Mobile Informational  
5 Call Act of 2011”.

6 **SEC. 2. DEFINITIONS.**

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

9 (1) by amending paragraph (1) to read as fol-  
10 lows:

1           “(1) The term ‘automatic telephone dialing sys-  
2           tem’ means equipment which uses a random or se-  
3           quential number generator to produce telephone  
4           numbers to be called and to dial such numbers.”;

5           (2) in paragraph (2)—

6           (A) by striking “subsection (b)(1)(C)(i)”  
7           and inserting “paragraph (3) and subsection  
8           (b)(1)(C)(i)”;

9           (B) in subparagraph (A), by striking “;  
10           and” and inserting a semicolon;

11           (C) in subparagraph (B), by striking  
12           “paragraph (2)(G).” and inserting “subsection  
13           (b)(2)(G); and”; and

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

15           “(C) this paragraph shall not apply for  
16           purposes of determining whether an established  
17           business relationship exists for purposes of  
18           prior express consent to a call that is a tele-  
19           phone solicitation.”;

20           (3) by redesignating paragraphs (3) through  
21           (5) as paragraphs (4) through (6), respectively; and

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

24           “(3) The term ‘prior express consent’ means  
25           the oral or written approval of a person—

1           “(A) for the initiation of a telephone call  
2           to such person by or on behalf of an entity with  
3           which such person has an established business  
4           relationship; and

5           “(B) that is provided when such person  
6           purchases a good or service or at any other  
7           point during such relationship.

8           A person who provides a telephone number as a  
9           means of contact evidences consent under this para-  
10          graph.”.

11          (b)           CONFORMING            AMENDMENT.—Section  
12          227(c)(1)(D) of the Communications Act of 1934 (47  
13          U.S.C. 227(c)(1)(D)) is amended by striking “subsection  
14          (a)(3)” and inserting “subsection (a)(5)”.

15          **SEC. 3. INFORMATIONAL CALLS TO MOBILE TELEPHONE**  
16                           **NUMBERS.**

17          (a) IN GENERAL.—Section 227(b)(1)(A) of the Com-  
18          munications Act of 1934 (47 U.S.C. 227(b)(1)(A)) is  
19          amended to read as follows:

20                 “(A) to make any call (other than a call  
21                 made for emergency purposes or made with the  
22                 prior express consent of the called party) using  
23                 any automatic telephone dialing system or an  
24                 artificial or prerecorded voice—

1 “(i) to any emergency telephone line  
2 (including any ‘911’ line and any emer-  
3 gency line of a hospital, medical physician  
4 or service office, health care facility, poison  
5 control center, or fire protection or law en-  
6 forcement agency);

7 “(ii) to the telephone line of any guest  
8 room or patient room of a hospital, health  
9 care facility, elderly home, or similar estab-  
10 lishment;

11 “(iii) to any telephone number as-  
12 signed to a paging service; or

13 “(iv) to any telephone number as-  
14 signed to a cellular telephone service, spe-  
15 cialized mobile radio service, or other radio  
16 common carrier service, or any service for  
17 which the called party is charged for the  
18 call, unless the call is made for a commer-  
19 cial purpose that does not constitute a tele-  
20 phone solicitation;”.

21 (b) CONFORMING AMENDMENT.—Section  
22 227(b)(2)(C) of the Communications Act of 1934 (47  
23 U.S.C. 227(b)(2)(C)) is amended by striking “paragraph  
24 (1)(A)(iii)” and inserting “paragraph (1)(A)(iv)”.

1           (c) **TECHNICAL CORRECTION.**—Section 227(b)(1) of  
2 the Communications Act of 1934 (47 U.S.C. 227(b)(1))  
3 is amended by striking “It shall” and all that follows  
4 through “United States—” and inserting the following:  
5 “It shall be unlawful for any person within the United  
6 States, or any person outside the United States if the re-  
7 cipient is within the United States—”.

8 **SEC. 4. EFFECT ON STATE LAW.**

9           Section 227(f)(1) of the Communications Act of 1934  
10 (47 U.S.C. 227(f)(1)) is amended to read as follows:

11           “(1) **IN GENERAL.**—No requirement or prohibi-  
12 tion may be imposed under the laws of any State  
13 with respect to any subject matter regulated under  
14 this section, except for telephone solicitations.”.

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