



December 2019

Section-by-Section Summary

Pallone-Thune TRACED Act

COMMITTEE ON ENERGY & COMMERCE

The Pallone-Thune TRACED Act is bipartisan, bicameral legislation that is supported by Chairman Frank Pallone, Jr. (D-NJ), Sen. John Thune (R-SD), Ranking Member Greg Walden (R-OR), Sen. Ed Markey (D-MA), Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) and Ranking Member Latta (R-OH). The legislation will turn back the tide of illegal robocalls.

Americans are receiving more illegal robocalls than ever before. In 2018, there were an estimated 48 billion robocalls, up over 64 percent since 2016, according to YouMail. First Orion predicts that this year 44.6 percent of all calls to mobile phones will be scam calls. In 2018, the Federal Communications Commission (FCC or Commission) received 232,000 consumer complaints of unwanted calls, a nearly 35 percent increase since 2015.

Section 1

This section names the bill the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (Pallone-Thune TRACED Act).

Section 2

The section defines the term “Commission” to mean the Federal Communications Commission.

Section 3

Consistent, sustained enforcement is key for making sure illegal robocallers stop their practices. Under the law today, the FCC has a short statute of limitations to bring robocall violations, and the Commission is barred by process requirements from going after first time offenders. A longer statute of limitations, a streamlined process for going after illegal robocallers, and authority to impose greater fines, will help deter bad actors.

This section allows the FCC to go after scammers the first time they break the law and extends the statute of limitations by up to four years in some cases, in order to give the FCC and law enforcement agencies enough time to prosecute illegal robocallers. It adds an additional penalty for intentional violations of up to \$10,000. It further requires the FCC to issue an annual report to Congress on illegal robocallers detailing its enforcement activities so Congress can make sure the robocalling problem is being addressed. The report also requires the FCC to provide Congress with proposals for decreasing the number of robocalls through additional legislation.

Section 4

Many of the illegal robocalls that are made today are done using disguised caller-ID, so the call looks like it is coming from a trusted source.

This section requires all carriers, over time, to implement a new technology to make sure that caller-ID information is appropriately authenticated with no additional line item charge for consumers on their bill. It also helps ensure rural parts of the country with older technology are not left behind. Specifically, this section requires the FCC to recognize the burdens and barriers to adopting this technology across the country and to address those barriers. To the extent some carriers need additional time to implement this technology, the FCC will find alternative methodologies for authenticating calls, and those carriers will need to implement separate robocall mitigation strategies. This provision also includes a safe harbor to help incentivize carriers to authenticate calls and block unlawful robocalls, where appropriate.

Section 5

Robocalls are on the rise, and the government must be better coordinated in enforcing the important laws that protect consumers from unlawful calls.

This section requires the Attorney General, in consultation with the FCC, to convene an interagency task force to study the government prosecution of robocall violations. Among other things, the task force will: (1) determine how federal law and budgetary constraints inhibit enforcement of the robocall violations; (2) identify existing and additional policies and programs to increase coordination between federal departments and agencies and the states for enforcing and preventing violations of the robocall violations; and (3) identify existing and potential international policies and programs to improve coordination between countries in enforcing robocall violations and similar laws.

Section 6

Robocallers sometimes get access to numbers from the FCC.

This section requires the FCC to determine how its policies regarding access to number resources could be modified to reduce the number of illegal robocallers.

Section 7

To ensure that new technologies are used to best protect consumers, the FCC needs to put consumers first.

This section requires the FCC to complete a rulemaking within one year to help protect consumers from receiving unwanted calls or text messages, using in part, new methods for authenticating calls, while also protecting those that do not have access to call authentication.

Section 8

Under current law, some robocalls can be made without consent, but consumers need to be protected from receiving too many calls from too many people.

Section 8 requires the FCC to implement consumer protections on the FCC's exempted classes of robocalls. These consumer protections must specifically include limits on:

- (1) the classes of parties that may make such calls,
- (2) the classes of parties that may be called, and
- (3) the number of calls allowed under the exemption.

Section 9

Too often consumers receive a torrent of robocalls that are intended for the person that previously had their phone number.

This section requires the FCC to issue a report to Congress to ensure the FCC is quickly making available the reassigned number database it agreed to implement in December of 2018. This section also clarifies that when a consumer gets a new phone number, robocallers cannot keep calling to look for the person that had that phone number before.

Section 10

Consumers should to have access to robocall blocking at no additional line item charge on their bill, and there needs to be transparency and redress for consumers and callers when a call is blocked.

This section makes sure those services are offered with no additional line item charge on their bill and that consumer and callers have transparency as to when a number has been blocked and effective redress. This section also ensures important calls like those from public safety are not wrongly blocked.

Section 11

Many robocallers have not been deterred by civil penalties against unlawful robocalls. There are criminal penalties against certain types of robocalling, and the Department of Justice (DOJ) should take a more active role in prosecuting scammers and fraudsters.

This section requires the FCC to submit evidence of certain criminal robocall violations to the DOJ for criminal prosecution and would require the FCC to publish a report annually disclosing how frequently the FCC submitted such evidence in an effort to increase criminal prosecutions by the DOJ.

Section 12

One-ring scams are when an overseas scammer makes a call to a consumer's number attempting to induce the consumer to call the scammer's number back, potentially resulting in hefty charges.

This section requires the FCC to initiate a proceeding to protect consumers from one-ring scams, including by working with foreign governments to address one-ring scams and by incentivizing carriers to stop calls made to perpetrate one-ring scams, among other things.

Section 13

In recent years, carriers have banded together to coordinate and trace back the origin of unlawful robocalls. However, many carriers still do not participate and the process could be better used to enforce laws that protect us from unlawful calls.

This section requires the FCC to register a consortium of companies engaged in private-led efforts to trace back the origin of suspected unlawful robocalls. It creates a certification process for when carriers have or

have not participated in a private-led effort to traceback the origin of a suspected unlawful robocall. This section also requires the FCC to publish a report on the participation by carriers in private-led efforts to trace back the origin of suspected unlawful robocalls and take appropriate enforcement action.

Section 14

Robocalls have particularly plagued hospitals recently, including by robocalling doctors while they are on-call and calling patients disguised as hospital officials to solicit sensitive information about the patient or family.

This section requires the FCC to establish a Hospital Robocall Working Group to, among other things, issue best practices to help voice service providers combat unlawful robocalls made to hospitals and to help hospitals protect themselves from robocalls. It also requires the FCC to initiate a proceeding to determine whether the voluntary adoption of the practices can be facilitated.

Section 15

This section specifies that if any provision of this act, or the amendments made by this act, are found to be invalid, the remainder of the bill shall not be affected.