

101ST CONGRESS  
1ST SESSION

# H. R. 2131

To amend the Communications Act of 1934 to prohibit certain practices in the use of automatic dialing devices, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 1989

Mrs. ROUKEMA 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 prohibit certain practices in the use of automatic dialing devices, 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 "Automated Telephone  
5 Solicitation Protection Act of 1989".

6 **SEC. 2. AMENDMENT.**

7 Title II of the Communications Act of 1934 is amended  
8 by inserting after section 224 the following new section:

“AUTOMATIC DIALING DEVICES

“SEC. 225. (a) DEFINITIONS.—As used in this section—

“(1) the term ‘automatic dialing device’ means telephone terminal equipment which has the capacity—

“(A) to store or produce numbers to be called, using a random or sequential number generator;

“(B) to dial such numbers; and

“(C) to deliver a prerecorded message to the number dialed, with or without manual assistance; and

“(2) the term ‘telephone solicitation’ means the unsolicited initiation of a telephone conversation for the purpose of encouraging a person to purchase property, goods, or services.

“(b) RESTRICTIONS.—It shall be unlawful for any person to use any automatic dialing device to make, in interstate or foreign communication, any telephone solicitation to a telephone customer if—

“(1) the recorded message fails to state clearly the name and telephone number of the person initiating the call;

“(2) the dialer does not automatically and immediately terminate its connection with any telephone call

1 within five seconds after the person called fails to give  
2 consent for the playing of the recorded message or  
3 hangs up his or her telephone;

4 “(3) the automatic dialing device is used to make  
5 calls to any emergency telephone line of any hospital,  
6 medical physician or service office, health care facility,  
7 fire protection, or law enforcement agency; or

8 “(4) such use is at a time other than between the  
9 weekday hours of 9 a.m. and 5 p.m.

10 “(c) EXCEPTIONS.—Subsection (b) shall not prohibit  
11 the use of an automatic dialing device if—

12 “(1) there is an existing business relationship be-  
13 tween caller and recipient of the call; or

14 “(2) the calls are made or message given solely in  
15 response to a specific request initiated by the person to  
16 whom the call or message is directed.

17 “(d) EXEMPTION FROM LIMITATION ON FORFEITURE  
18 PENALTIES.—The \$5,000 limitation contained in subpara-  
19 graph (B) of section 503(b)(2) of this Act shall not apply to  
20 forfeiture penalties for violations of this section.

21 “(e) STATE PREEMPTION.—Nothing in this section  
22 shall supersede or limit the applicability of any State law to  
23 the use of automatic dialing devices.

24 “(f) STUDY.—The Commission and the Federal Trade  
25 Commission shall conduct a joint study of the practicality and

1 constitutionality of a complete ban on the use of automatic  
2 dialing devices to delivery telephone solicitations. The Com-  
3 mission and the Federal Trade Commission shall submit a  
4 report to the Congress not later than one year after the date  
5 of enactment of this section on the results of such study, to-  
6 gether with such recommendations for legislation as they  
7 consider appropriate.”.

8 **SEC. 3. EFFECTIVE DATE.**

9       The amendment made by section 2 shall be effective 6  
10 months after the date of enactment of this Act.

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