

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1847

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IN THE SENATE OF THE UNITED STATES

JULY 9, 1997

Received; read twice and referred to the Committee on the Judiciary

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## AN ACT

To improve the criminal law relating to fraud against  
consumers.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Telemarketing Fraud  
3 Prevention Act of 1997”.

4 **SEC. 2. FORFEITURE OF FRAUD PROCEEDS.**

5 Section 982(a) of title 18, United States Code, is  
6 amended by adding at the end the following:

7 “(8) The Court, in sentencing a defendant for an of-  
8 fense under section 2326, shall order that the defendant  
9 forfeit to the United States any real or personal prop-  
10 erty—

11 “(A) used or intended to be used to commit or  
12 to promote the commission of such offense, if the  
13 court in its discretion so determines, taking into con-  
14 sideration the nature, scope, and proportionality of  
15 the use of the property in the offense; and

16 “(B) constituting, derived from, or traceable to  
17 the gross proceeds that the defendant obtained di-  
18 rectly or indirectly as a result of the offense.”.

19 **SEC. 3. SENTENCING GUIDELINES CHANGES.**

20 Pursuant to its authority under section 994(p) of title  
21 28, United States Code, the United States Sentencing  
22 Commission shall review and amend the sentencing guide-  
23 lines to provide a sentencing enhancement for any offense  
24 listed in section 2326 of title 18, United States Code—

1           (1) by at least 4 levels if the circumstances au-  
2           thorizing an additional term of imprisonment under  
3           section 2326(1) are present; and

4           (2) by at least 8 levels if the circumstances au-  
5           thorizing an additional term of imprisonment under  
6           section 2326(2) are present.

7 **SEC. 4. INCREASED PUNISHMENT FOR USE OF FOREIGN**  
8 **LOCATION TO EVADE PROSECUTION.**

9           Pursuant to its authority under section 994(p) of title  
10 28, United States Code, the United States Sentencing  
11 Commission shall amend the sentencing guidelines to in-  
12 crease the offense level for any fraud offense by at least  
13 2 levels if the defendant conducted activities to further  
14 the fraud from a foreign country.

15 **SEC. 5. SENTENCING COMMISSION DUTIES.**

16           The Sentencing Commission shall ensure that the  
17 sentences, guidelines, and policy statements for offenders  
18 convicted of offenses described in sections 3 and 4 are ap-  
19 propriately severe and reasonably consistent with other  
20 relevant directives and with other guidelines.

21 **SEC. 6. CLARIFICATION OF ENHANCEMENT OF PENALTIES.**

22           Section 2327(a) of title 18, United States Code, is  
23 amended by striking “under this chapter” and inserting  
24 “for which an enhanced penalty is provided under section  
25 2326 of this title”.

1 **SEC. 7. ADDITION OF CONSPIRACY OFFENSES TO SECTION**  
2 **2326 ENHANCEMENT.**

3 Section 2326 of title 18, United States Code, is  
4 amended by inserting “, or a conspiracy to commit such  
5 an offense,” after “or 1344”.

Passed the House of Representatives July 8, 1997.

Attest: ROBIN H. CARLE,  
*Clerk.*