


FOURTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

SENATE  
OFFICE OF THE SECRETARY

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SENATE

S. NO. 2297

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

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#### EXPLANATORY NOTE

A person's right to privacy as stated under Article III, Section 3 of the Philippine Constitution is not only limited to a person's right against unlawful intrusion into one's home or personal effects but also extends to a person's communication or correspondence whether it be spoken, written, or electronic.

This right to privacy of communication and correspondence is further strengthened with the enactment of Republic Act No. 4200 entitled, "An Act to Prohibit and Penalize Wire Tapping and other related Violations of the Privacy of Communication, and for other Purposes" which prohibited and penalized wiretapping.

This proposed bill, in support with the measures mentioned above, further reinforces a person's right to privacy of communications and correspondence by providing additional means that would make it more difficult to access phone records of consumers which may be accessed without their authorization.

In view of the foregoing, immediate approval of this measure is earnestly sought.



ANTONIO "SONNY" F. TRILLANES IV

Senator

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MAY 20 2015

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**AN ACT  
TO PROTECT CONSUMERS' PHONE RECORDS**

*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled.*

1           **Section 1. Short Title.** - This Act shall be known as the "Protecting  
2 Consumers' Phone Records Act of 2008"

3  
4           **Sec. 2. Declaration of Policy.** It is hereby declared the policy of the State  
5 to ensure the privacy of communication and correspondence, and to prohibit the  
6 unlawful and illegal use of information gathered in violation of this right, and to  
7 prohibit the obtaining of customer information from telecommunications carriers  
8 by false pretenses, and the sale or disclosure of such records obtained by false  
9 pretenses.

10  
11           **Sec. 3. Definition of Terms.** – As used in this section, the term –

12           (1) "IP Enabled Voice Service" – shall mean the provision of real-time  
13 2-way voice communications offered to the public, or such classes of users as to  
14 be effectively available to the public, transmitted through customer premises  
15 equipment using TCP/ IP protocol, or a successor protocol, for a fee (whether  
16 part of a bundle of services or separately) with interconnection capability such  
17 that the service can originate traffic to, or terminate traffic from, the public  
18 switched telephone network.

19           (2) "Telecommunications Carrier" is the means used to transport,  
20 engage and transmit any form of communication to another person or entity.

21

1 (3) "Confidential Phone Records Information" means information that –

2 (a) relates to the quantity, technical configuration, type, destination  
3 location, or amount of use of a service offered by a covered entity, subscribed to  
4 by any customer of that covered entity, and kept by or on behalf of that covered  
5 entity solely by virtue of the relationship between that covered entity and  
6 customer;

7 (b) is made available to a covered entity by a customer solely by  
8 virtue of the relationship between that covered entity and the customer; or

9 (c) is contained in any bill, itemization, or account statement provided  
10 to a customer by or in behalf of a covered entity solely by virtue of the  
11 relationship between that covered entity and the customer.

12 (4) "Covered Entity" – includes any provider of IP-enabled voice service.

13 (5) "Customer" – means a covered entity, any individual, partnership,  
14 association, joint stock company, trust, or corporation, or authorized  
15 representative of such customer, to whom the covered entity provides a product  
16 or service.

17 (6) "Wireless Telephone Number Information" – means the telephone  
18 number, electronic address, and any other identifying information by which a  
19 calling party may reach a commercial mobile service customer, and which is  
20 assigned by a commercial mobile service provider to such customer, and  
21 includes the name and address of such customer.

22 (7) "Wireless Directory Assistance Service" means any service for  
23 connecting calling parties to a commercial mobile service customer when such  
24 calling parties themselves do not possess the wireless telephone number  
25 information of such customer.

26  
27 **Sec. 4. Unauthorized Acquisition, Use, or Sale of Confidential**  
28 **Customer Proprietary Network Telephone Information.**

29 (A) In General – It is unlawful for any person –

30 (1) to acquire or use the customer proprietary network information  
31 and phone records information of another person without the persons'  
32 affirmative written consent by -

33 (1.1.) making false or fraudulent statements or representations  
34 to an employee of a covered entity:

1 (1.2.) making such false or fraudulent statements or  
2 representations to a customer of a covered entity;

3 (1.3.) providing a document to a covered entity knowing that  
4 such document is false or fraudulent; or

5 (1.4.) accessing customer accounts of a covered entity via the  
6 internet, without prior authorization from the customer to whom  
7 such confidential phone records information relates.

8 (2) to misrepresent that another person has consented to the  
9 acquisition or use of such other person's customer proprietary network  
10 information and phone records information in order to acquire such  
11 information;

12 (3) to obtain unauthorized access to the data processing system or  
13 records of a telecommunications carrier or an IP-enabled voice service  
14 provider in order to acquire the customer proprietary network information  
15 and phone records information of one (1) or more other persons;

16 (4) to sell, or offer for sale, customer proprietary network information  
17 and phone records information; or

18 (5) to request that another person obtain customer proprietary  
19 network information and phone records information from a  
20 telecommunications carrier or IP-enabled voice service provider, knowing  
21 that the other person will obtain the information from such carrier or  
22 provider in any manner that is unlawful under this subsection.

23 (B) Exceptions. –

24 (1) Application of Other Laws – This Act does not prohibit any act or  
25 practice otherwise authorized by law, including any lawfully authorized  
26 investigative, protective, or intelligence activity of a law enforcement  
27 agency or the Republic of the Philippines, or an intelligence agency of the  
28 Republic of the Philippines.

29 (2) Caller ID – Nothing in this Act prohibits the use of caller  
30 identification services by any person to identify the originator of the  
31 telephone calls received by that person.

32  
33 **Sec. 5. Wireless Consumer Privacy Protection. –**

34 (A) A provider of commercial mobile services, or any direct or indirect  
35 affiliate or agent of such a provider, may not provide the wireless telephone

1 number information of any customer to any wireless directory assistance service  
2 unless the mobile service provider –

3 (1) provides a conspicuous, separate notice to the customer  
4 informing the customer of the right not to be listed in any wireless directory  
5 assistance service; and

6 (2) obtains express prior authorization for listing from such customer,  
7 separate from any authorization obtained to provide such customer with  
8 commercial mobile service, or any calling plan or service associated with  
9 such commercial mobile service, and such authorization has not been  
10 subsequently withdrawn.

11 (B) Publication of Directories Prohibited – A provider of commercial mobile  
12 services, or any direct or indirect affiliate or agent of such a provider, may not  
13 publish, in printed, electronic, or other form, or sell or otherwise disseminate, an  
14 individual's wireless telephone information held by any wireless directory  
15 assistance service, or any portion or segment thereof, unless the mobile service  
16 provider –

17 (1) provides a conspicuous, separate notice to the customer  
18 informing the customer of the right not to be listed; and

19 (2) obtains express prior authorization for listing from such customer,  
20 separate from any authorization obtained to provide such customer with  
21 commercial mobile service, or any calling plan or service associated with  
22 such commercial mobile service and such authorization has been  
23 subsequently withdrawn.

24 (C) No Consumer Fee for Retaining Privacy – A provider of commercial  
25 mobile services may not charge any customer for exercising any of the rights  
26 described under this subsection.

27  
28 **Sec. 6. Right of Action. –**

29 (A) Private Right of Action for Providers –

30 (1) A telecommunications carrier or IP-enabled voice service provider  
31 may bring a civil action in an appropriate court that meets applicable  
32 requirements relating to venue under the Rules of Court, and any court in  
33 which the carrier or service provider resides or conducts business -

34 (1.1.) based on violation of this section or the regulations  
35 prescribed under this section to enjoin such violation;

1 (1.2.) to recover for actual monetary loss from such a violation,  
2 or to receive PhP 20,000 in damages for each violation, whichever is  
3 greater; or

4 (1.3.) both

5 (2) If the court finds that the defendant willfully or knowingly violated  
6 this section or the regulations prescribed under this section, the court may,  
7 in its discretion, increase the amount of the award to an amount equal to  
8 not more than three times the amount available under paragraph (1) of  
9 this subsection.

10 (B) Private Right of Action for Consumers –

11 (1) In General – An individual who has been injured as a direct result  
12 of his or her confidential proprietary network information being obtained,  
13 used, or sold in violation of this section may file a civil action in any court  
14 of competent jurisdiction against the person who caused the injury by  
15 violating this section.

16 (2) Remedies – A court in which such civil action has been brought  
17 may award damages of not more than PhP 20,000 for each violation of  
18 this section with respect to the plaintiff's customer proprietary network  
19 information.

20 (3) If the court finds that the defendant willfully or knowingly violated  
21 this section or the regulations prescribed under this section, the court may,  
22 in its discretion, increase the amount of award to not more than three (3)  
23 times the damages determined by the court under paragraph (2).

24 (C) Civil Penalty –

25 (1) In General – Any person who violates this section shall be subject  
26 to a civil penalty of not more than PhP 20,000 for each violation or each  
27 day of a continuing violation, except that the amount assessed for any  
28 continuing violation shall not exceed a total of PhP 20,000,000 or any  
29 single act or failure to act.

30 (2) Separate Violations – A violation of this section with respect to the  
31 customer proprietary network information of one person shall be treated  
32 as a separate violation with respect to the customer proprietary network  
33 information of any other person.

34

1           **Sec. 7. Separability Clause.** – If any provision or part thereof, is held  
2 invalid or unconstitutional, the remainder of the law or the provision not otherwise  
3 affected shall remain valid and subsisting.

4  
5           **Sec. 8. Repealing Clause.** – Any law, presidential decree or issuance,  
6 executive order, letter of instruction, administrative order, rule or regulation  
7 contrary to, or inconsistent with the provisions of this Act is hereby repealed,  
8 modified or amended accordingly.

9  
10           **Sec. 9. Effectivity Clause.** – This Act shall take effect fifteen (15) days  
11 after its publication in at least two (2) newspapers of general circulation.

Approved,