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105TH CONGRESS
1ST SESSION

H. R. 1847

AN ACT

To improve the criminal law relating to fraud against consumers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing Fraud Prevention Act of 1997".

SEC. 2. FORFEITURE OF FRAUD PROCEEDS.

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

"(8) The Court, in sentencing a defendant for an offense under section 2326, shall order that the defendant forfeit to the United States any real or personal property—

"(A) used or intended to be used to commit or to promote the commission of such offense, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense; and

"(B) constituting, derived from, or traceable to the gross proceeds that the defendant obtained directly or indirectly as a result of the offense.".

SEC. 3. SENTENCING GUIDELINES CHANGES.

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

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(1) by at least 4 levels if the circumstances authorizing an additional term of imprisonment under section 2326(1) are present; and

(2) by at least 8 levels if the circumstances authorizing an additional term of imprisonment under section 2326(2) are present.

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

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

SEC. 5. SENTENCING COMMISSION DUTIES.

The Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of offenses described in sections 3 and 4 are appropriately severe and reasonably consistent with other relevant directives and with other guidelines.

SEC. 6. CLARIFICATION OF ENHANCEMENT OF PENALTIES.

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

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SEC. 7. ADDITION OF CONSPIRACY OFFENSES TO SECTION 2326 ENHANCEMENT.

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

Passed the House of Representatives July 8, 1997.

Attest:

Clerk.

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