

109TH CONGRESS
2^D SESSION

S. 4102

To amend the Communications Act of 1934 to prohibit the use of telecommunications devices for the purpose of preventing or obstructing the broadcast or exchange of election-related information.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2006

Mr. OBAMA introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to prohibit the use of telecommunications devices for the purpose of preventing or obstructing the broadcast or exchange of election-related information.

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 “Election Jamming Pre-
5 vention Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The most fundamental right accorded to
2 United States citizens by the Constitution is the
3 right to vote, and unimpeded exercise of the right to
4 vote is essential to the functioning of our democracy.

5 (2) Historically, significant efforts have been
6 undertaken to prevent qualified individuals from ex-
7 ercising this right.

8 (3) Poll taxes, property requirements, and lit-
9 eracy tests were once used to restrict voters' access
10 to the polls. Now, efforts like deceptive practices, in-
11 timidation, and dirty tricks are used to impede
12 qualified voters' exercise of their right to vote, to
13 prevent voters from making informed decisions as to
14 how to cast that vote, and to prevent candidates,
15 parties, and organizations from engaging in con-
16 stitutionally protected political speech.

17 (4) In recent elections, there have been allega-
18 tions of political campaigns and committees using
19 telephone jamming techniques to shut down the
20 communication operations of groups supporting their
21 political opponents.

22 (5) In November 2002, according to the De-
23 partment of Justice, groups working on behalf of the
24 Republican candidates in New Hampshire conspired
25 to shut down Democratic get-out-the-vote efforts by

1 placing hang-up calls to the phones of the Man-
 2 chester Democratic Party and the Manchester Pro-
 3 fessional Firefighters Association, which were pro-
 4 viding qualified voters rides to the election polling
 5 places. Several people have pled guilty or been con-
 6 victed in connection with the incident.

7 (6) As a result of the hang-up call effort, the
 8 phone lines of the Manchester Democratic Party and
 9 the Manchester Professional Firefighters Association
 10 were jammed on election day 2002 and qualified vot-
 11 ers were unable to access information that would
 12 have facilitated their access to polling places.

13 (7) The use of telephones or other communica-
 14 tion devices to jam election-related communications
 15 should be prohibited in order to protect qualified
 16 voters' right to vote.

17 **SEC. 3. PROHIBITION ON PREVENTING OR OBSTRUCTING**
 18 **THE BROADCAST OR EXCHANGE OF INFOR-**
 19 **MATION THROUGH TELECOMMUNICATIONS**
 20 **DEVICES.**

21 (a) PROHIBITION.—

22 (1) IN GENERAL.—Subparagraph (C) of section
 23 223(a)(1) of the Communications Act of 1934 (47
 24 U.S.C. 223(a)(1)(C)) is amended by striking “with
 25 the intent to annoy, abuse, threaten, or harass any

1 person at the called number or who receives the
2 communications;” and inserting “with the intent
3 to—

4 “(i) annoy, abuse, threaten, or harass
5 any person at the called number or who re-
6 ceives the communications;

7 “(ii) prevent or obstruct the broadcast
8 or exchange of election-related information;
9 or

10 “(iii) impair or obstruct any other
11 telecommunications device from being used
12 to engage in communications containing
13 election-related information;”.

14 (2) ELECTION-RELATED INFORMATION.—Sub-
15 section (h) of section 223 of the Communications
16 Act of 1934 (47 U.S.C. 223(h)) is amended by add-
17 ing at the end the following new paragraph:

18 “(5) The term ‘election-related information’
19 means information related to—

20 “(A) the endorsement, support, promotion
21 of, or opposition to any clearly identified can-
22 didate or slate of candidates for the office of
23 President, Vice President, presidential elector,
24 Member of the Senate, Member of the House of

1 Representatives, or Delegate or Commissioner
2 from a territory or possession;

3 “(B) the time, place, or manner for the
4 election of such offices; or

5 “(C) the facilitation of transport to or
6 from polling places for any such election.”.

7 (b) PRIVATE RIGHT OF ACTION.—Section 223 of the
8 Communications Act of 1934 (47 U.S.C. 223) is amended
9 by adding at the end the following new subsection:

10 “(i) PRIVATE RIGHT OF ACTION FOR INJUNCTIVE OR
11 DECLARATIVE RELIEF AGAINST CERTAIN ACTIONS.—Any
12 person aggrieved by a violation of subsection (a)(1)(C)
13 may bring a civil action or other proper proceeding for
14 injunctive or declarative relief in any court of competent
15 jurisdiction, including an application in a United States
16 district court.”.

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