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104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1499

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 1996

Received

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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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Telemarketing Fraud  
5 Punishment and Prevention Act of 1996”.

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

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

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

8 “(A) used or intended to be used to com-  
9 mit or to promote the commission of such of-  
10 fense, if the court in its discretion so deter-  
11 mines, taking into consideration the nature,  
12 scope, and proportionality of the use of the  
13 property in the offense; and

14 “(B) constituting, derived from, or trace-  
15 able to the gross receipts that the defendant ob-  
16 tained directly or indirectly as a result of the  
17 offense.”.

18 **SEC. 3. SENTENCING GUIDELINES CHANGES.**

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

24 (1) by at least 4 levels if the circumstances au-  
25 thORIZING an additional term of imprisonment under  
26 section 2326(1) are present; and

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

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

6           Pursuant to its authority under section 994(p) of title  
7 28, United States Code, the United States Sentencing  
8 Commission shall amend the sentencing guidelines to in-  
9 crease the offense level for any fraud offense by at least  
10 2 levels if the defendant conducted activities to further  
11 the fraud from a foreign country.

12 **SEC. 5. CLARIFICATION OF ENHANCEMENT OF PENALTIES.**

13           Section 2327(a) of title 18, United States Code, is  
14 amended by striking “under this chapter” and inserting  
15 “for which an enhanced penalty is provided under section  
16 2326 of this title”.

1 **SEC. 6. 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 September 25,  
1996.

Attest:

ROBIN H. CARLE,

*Clerk.*

By JEFF TRANDAHL,

*Assistant to the Clerk.*

