

(C) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of the commission of an offense referred to in subparagraph (A).

(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. For seizures made under this section, the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used. At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

(b) CRIMINAL FORFEITURE.—

(1) PROPERTY SUBJECT TO FORFEITURE.—The court, in imposing sentence on a person convicted of an offense under section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States Government any property subject to forfeiture under subsection (a) for that offense.

(2) PROCEDURES.—

(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

(B) DESTRUCTION.—At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States shall order that any—

(i) forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law; and

(ii) infringing items or other property described in subsection (a)(1)(A) and forfeited under paragraph (1) of this subsection be destroyed or otherwise disposed of according to law.

(c) RESTITUTION.—When a person is convicted of an offense under section 506 of title 17 or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, the court, pursuant to sections 3556, 3663A, and 3664 of this title, shall order the person to pay restitution to any victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii) of this title.

(Added Pub. L. 110-403, title II, §206(a), Oct. 13, 2008, 122 Stat. 4262.)

CHAPTER 113A—TELEMARKETING FRAUD

Sec.	
2325.	Definition.
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Sec.	
2327.	Mandatory restitution.

PRIOR PROVISIONS

A prior chapter 113A of part I of this title, consisting of section 2331 et seq. and relating to terrorism, was renumbered chapter 113B of part I of this title by Pub. L. 103-322, title XXV, § 250002(a)(1), Sept. 13, 1994, 108 Stat. 2082.

§ 2325. Definition

In this chapter, “telemarketing”—

(1) means a plan, program, promotion, or campaign that is conducted to induce—

- (A) purchases of goods or services;
- (B) participation in a contest or sweepstakes; or
- (C) a charitable contribution, donation, or gift of money or any other thing of value,

by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant or charitable contributor, or donor; but

(2) does not include the solicitation of sales through the mailing of a catalog that—

- (A) contains a written description or illustration of the goods or services offered for sale;
- (B) includes the business address of the seller;
- (C) includes multiple pages of written material or illustration; and
- (D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders without further solicitation.

(Added Pub. L. 103-322, title XXV, § 250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 107-56, title X, § 1011(d), Oct. 26, 2001, 115 Stat. 396.)

AMENDMENTS

2001—Par. (1). Pub. L. 107-56 added subpar. (C) and inserted “or charitable contributor, or donor” before semicolon in concluding provisions.

SHORT TITLE

Pub. L. 103-322, title XXV, § 250001, Sept. 13, 1994, 108 Stat. 2081, provided that: “This Act [probably should be “title”, meaning title XXV (§§ 250001-250008) of Pub. L. 103-322, which enacted this chapter, amended sections 1029, 1341, and 3059 of this title, and enacted provisions set out as notes under this section and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Senior Citizens Against Marketing Scams Act of 1994.’”

INFORMATION NETWORK

Pub. L. 103-322, title XXV, § 250008, Sept. 13, 1994, 108 Stat. 2088, as amended by Pub. L. 104-294, title VI, § 604(b)(29), Oct. 11, 1996, 110 Stat. 3508, provided that:

“(a) HOTLINE.—The Attorney General shall, subject to the availability of appropriations, establish a national toll-free hotline for the purpose of—

- “(1) providing general information on telemarketing fraud to interested persons; and
- “(2) gathering information related to possible violations of provisions of law amended by this title [see Short Title note above].