

emails, text messages, or electronic instant messages initiated by customers in response to the written materials, whether in hard copy or digital format, and in response to those interstate telephone calls, emails, text messages, or electronic instant messages does not conduct further solicitation.

(Added Pub. L. 115-70, title IV, § 402(a)(2), Oct. 18, 2017, 131 Stat. 1213.)

#### PRIOR PROVISIONS

A prior section 2325, 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, related to definition of “telemarketing”, prior to repeal by Pub. L. 115-70, title IV, § 402(a)(2), Oct. 18, 2017, 131 Stat. 1213.

#### 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].

“(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.”

#### § 2326. Enhanced penalties

A person who is convicted of an offense under section 1028, 1029, 1341, 1342, 1343, 1344, or 1347 or section 1128B of the Social Security Act (42 U.S.C. 1320a-7b), or a conspiracy to commit such an offense, in connection with the conduct of telemarketing or email marketing—

(1) shall be imprisoned for a term of up to 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and

(2) in the case of an offense under any of those sections that—

(A) victimized ten or more persons over the age of 55; or

(B) targeted persons over the age of 55,

shall be imprisoned for a term of up to 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

(Added Pub. L. 103-322, title XXV, § 250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 105-184, §§ 3, 4, June 23, 1998, 112 Stat. 520; Pub. L. 115-70, title IV, § 402(a)(3), Oct. 18, 2017, 131 Stat. 1214.)

#### AMENDMENTS

2017—Pub. L. 115-70 substituted “1344, or 1347 or section 1128B of the Social Security Act (42 U.S.C. 1320a-7b)” for “or 1344” and inserted “or email marketing” after “telemarketing” in introductory provisions.

1998—Pub. L. 105-184 inserted “, or a conspiracy to commit such an offense,” after “or 1344” in introductory provisions and substituted “shall” for “may” in two places.

#### § 2327. Mandatory restitution

(a) IN GENERAL.—Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution to all victims of any offense for which an enhanced penalty is provided under section 2326.

(b) SCOPE AND NATURE OF ORDER.—

(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court pursuant to paragraph (2).

(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) DEFINITION.—For purposes of this subsection, the term “full amount of the victim’s losses” means all losses suffered by the victim as a proximate result of the offense.

(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of—

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) VICTIM DEFINED.—In this section, the term “victim” has the meaning given that term in section 3663A(a)(2).

(Added Pub. L. 103-322, title XXV, § 250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 104-132, title II, § 205(e), Apr. 24, 1996, 110 Stat. 1232; Pub. L. 104-294, title VI, § 601(n), Oct. 11, 1996, 110 Stat. 3502; Pub. L. 105-184, § 5, June 23, 1998, 112 Stat. 520.)

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-184, § 5(1), substituted “to all victims of any offense for which an enhanced penalty is provided under section 2326” for “for any offense under this chapter”.

Subsec. (c). Pub. L. 105-184, § 5(2), added subsec. (c) and struck out former subsec. (c) which read as follows:

“(c) DEFINITION.—For purposes of this section, the term ‘victim’ includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.”

1996—Subsec. (a). Pub. L. 104-132, § 205(e)(1), inserted “or 3663A” after “3663”.

Subsec. (b)(1). Pub. L. 104-132, § 205(e)(2)(A), reenacted heading without change and amended text generally.