

erwise 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 AND EMAIL MARKETING FRAUD

Sec.	
2325.	Definition.
2326.	Enhanced penalties.
2327.	Mandatory restitution.
2328.	Mandatory forfeiture.

Editorial Notes

PRIOR PROVISIONS

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

AMENDMENTS

2017—Pub. L. 115-70, title IV, §402(a)(1), (b)(2), Oct. 18, 2017, 131 Stat. 1213, 1214, inserted “AND EMAIL MARKETING” after “TELEMARKETING” in chapter heading and added item 2328.

§ 2325. Definition

In this chapter, the term “telemarketing or email marketing”—

(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;

(C) a charitable contribution, donation, or gift of money or any other thing of value;

(D) investment for financial profit;

(E) participation in a business opportunity;

(F) commitment to a loan; or

(G) participation in a fraudulent medical study, research study, or pilot study,

by use of one or more interstate telephone calls, emails, text messages, or electronic instant messages 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, donor, or investor; and

(2) does not include the solicitation through the posting, publication, or mailing of a catalog or brochure that—

(A) contains a written description or illustration of the goods, services, or other opportunities being offered;

(B) includes the business address of the solicitor;

(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, email, text message, or electronic instant message, but only receives interstate telephone calls, 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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