

# Congress Blocks Robocalls - AvvoStories

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Like email spam, telemarketer and scam phone calls are such routine and ubiquitous elements of modern life it's easy to forget that most of those phone calls are illegal. The [Telephone Consumer Protection Act](#), passed in 1991, banned unsolicited robocalls. The proliferation of cell phones and major changes to telephone infrastructure in the intervening years have allowed robocalls to proliferate. Even elected officials are not immune to the scourge, motivating Congress to take action on [phone scams](#).

## Telephone Consumer Protection Act

The Telephone Consumer Protection Act (TCPA) is a 1991 federal law which protects consumers from harmful telemarketing practices. Banned practices include:

- **Robocalls:** These are phone calls made with an auto-dialing machine that use artificial voices or prerecorded messages.
- **Unsolicited text messages:** A text message is unsolicited if the recipient was not already a customer of the sender.
- **Calling numbers on the national [Do Not Call Registry](#):** Telemarketers cannot call home or mobile phones on the registry. Charities, political groups, debt collectors, and survey takers are exempt.
- **Sending junk faxes:** This kind of fax spam is faxed advertisements sent without permission. Even if you are a customer of the company sending the ads, you can actively [opt out](#) of receiving such faxes.

In 2012, the FCC revised its TCPA rules to require telemarketers obtain prior express written consent from consumers before robocalling them, even if the company has an "established business relationship." The new rules also require telemarketers to provide an automated, interactive "opt-out" mechanism during each robocall so consumers can immediately tell the telemarketer to stop calling. The law does not distinguish between cell phones and landlines.

## Government Action

Despite the law and its updates, the number of robocalls has proliferated to shocking levels – according to the [YouMail](#) robocall index, an estimated [3.4 billion robocalls](#) were made in April of 2018, increasing to 5.2 billion in January 2019. The calls are not just annoying – they can have real costs, especially for vulnerable populations like the [elderly](#) and new [immigrants](#). Lately, there has been a groundswell of support for strengthening robocall laws. States, federal regulators, and Congress have all started paying attention to the problem.

Florida [passed a bill](#) last March giving phone companies the authority to block certain robocalls. Around the same time, legislation sponsored by Rep. Grace Meng, D-N.Y., passed as part of the omnibus spending bill, [criminalizing](#) spoofing (falsifying caller ID information to appear like a legitimate organization) attempts from abroad. In October 2018, 35 state attorneys general issued a [joint letter](#) urging the federal government to take stronger action. Despite the somewhat laissez-faire attitude of current FCC leadership, the new Florida law was enabled by an [agency rule](#) adopted in November 2017.

## Bills in Congress

Sen. Ed Markey, D-Mass., and Rep. Frank Pallone, D-N.J., introduced the [Stopping Bad Robocalls Act](#) in both houses last June. On February 4, Pallone, who is chairman of the House Energy and Commerce Committee, [reintroduced](#) the bill. The bill would allow consumers to opt out of robocalls at any point, expand the ban to more kinds of robocalls, including calls from unauthenticated numbers, and extend the statute of limitations from one to four years for illegal robocalls.

In the meantime, Markey, who was instrumental in passing the original TCPA, partnered with Sen. John Thune, R-S.D., to introduce the [Telephone Robocall Abuse Criminal Enforcement and Deterrence \(TRACED\) Act](#) in the Senate in November. The bill would increase criminal penalties to \$10,000, extend the statute of limitations to three years, require phone companies to adopt call authentication systems and direct the FCC to initiate rulemaking to better protect users against scam phone calls. In December, Rep. Brian Babin, R-TX, introduced the [House TRACED Act](#), where it has been referred to the Committee on Energy and Commerce.

Stopping Bad Robocalls and TRACED contain many of the same or similar provisions. Which one will make it to a law is anybody's guess, but with robocalls [increasing 46%](#) each year, stronger telephone consumer protection laws are overdue.

## Class Action