

[June 29, 1983]

Amendment to H.R. 2755
Offered by Mr. Bliley

After section 4 insert the following new section:

1 Clarification and Administration of Section 223

2 Sec. 5. (a) Section 223 of the Communications Act of
3 1934 (47 U.S.C 223) is amended by inserting `` (a) `` before
4 ``Whoever`` and by adding at the end thereof the following
5 new subsection:

6 `` (b) (1) Whoever--

7 `` (A) in the District of Columbia or in interstate
8 or foreign communication, by means of telephone, makes
9 (directly or by recording device) any comment, request,
10 suggestion, or proposal which is obscene, lewd,
11 lascivious, filthy, or indecent, regardless of whether
12 the maker of such comments placed the call, or

13 `` (B) knowingly permits any telephone facility under
14 such person's control to be used for any purpose
15 prohibited by subparagraph (A),

16 shall be fined not more than \$50,000 or imprisoned not more
17 than six months, or both.

1 “(2)(A) In addition to the criminal penalties under
2 paragraph (1), whoever, in the District of Columbia or in
3 interstate or foreign communication, violates paragraph
4 (1)(A) or (1)(B) for commercial purposes shall be subject to
5 a civil fine of not more than \$50,000 for each violation.
6 For purposes of this paragraph, each day of violation shall
7 constitute a separate violation.

8 “(B) A fine under this paragraph may be assessed
9 either--

10 “(i) by a court, pursuant to a civil action by the
11 Commission or any attorney employed by the Commission
12 who is designated by the Commission for such purpose, or

13 “(ii) by the Commission, after appropriate
14 administrative proceedings.

15 “(3)(A) Either the Attorney General, or the Commission
16 or any attorney employed by the Commission who is designated
17 by the Commission for such purpose, may bring suit in a
18 district court of the United States to enjoin any act or
19 practice which allegedly violates paragraph (1)(A) or
20 (1)(B).

21 “(B) Upon a proper showing that, weighing the equities
22 and considering the likelihood of ultimate success, a
23 preliminary injunction would be in the public interest, and
24 after notice to the defendant, such preliminary injunction
25 may be granted. If a full trial on the merits is not

1 scheduled within such period (not exceeding 20 days) as may
2 be specified by the court after issuance of the preliminary
3 injunction, the injunction shall be dissolved by the
4 court.".

(b) Section 223 (a) of the Communications Act of 1934
(as redesignated by subsection (a) of this Act) is amended--

(1) in paragraph (1), by striking out subparagraph
(A); and

(2) in paragraph (2), by inserting "facility"
after "telephone".

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2 be specified by the court after issuance of the preliminary
3 injunction, the injunction shall be dissolved by the
4 court.".

(D) Section 223 (a) of the Communications Act of 1934
(as redesignated by subsection (a) of this Act) is amended--

(1) in paragraph (1), by striking out subparagraph
(A); and

(2) in paragraph (2), by inserting "facility"
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