

109TH CONGRESS
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H. R. 1078

To strengthen the authority of the Federal Government to protect individuals from certain acts and practices in the sale and purchase of Social Security numbers and Social Security account numbers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2005

Mr. MARKEY (for himself, Mr. EMANUEL, Mrs. CAPPES, Mr. GEORGE MILLER of California, Mr. McNULTY, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To strengthen the authority of the Federal Government to protect individuals from certain acts and practices in the sale and purchase of Social Security numbers and Social Security account numbers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Social Security Num-
5 ber Protection Act of 2005”.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) The inappropriate sale or purchase of Social
4 Security numbers is a significant factor in a growing
5 range of illegal activities, including fraud, identity
6 theft, and, in some cases, stalking and other violent
7 crimes.

8 (2) While financial institutions, health care pro-
9 viders, and other entities have often used Social Se-
10 curity numbers to confirm the identity of an indi-
11 vidual, the sale or purchase of these numbers often
12 facilitates the commission of criminal activities, and
13 also can result in serious invasions of individual pri-
14 vacy.

15 (3) The Federal Government requires virtually
16 every individual in the United States to obtain and
17 maintain a Social Security number in order to pay
18 taxes, to qualify for Social Security benefits, or to
19 seek employment. An unintended consequence of
20 these requirements is that Social Security numbers
21 have become tools that can be used to facilitate
22 crime, fraud, and invasions of the privacy of the in-
23 dividuals to whom the numbers are assigned. Be-
24 cause the Federal Government created and main-
25 tains this system, and because the Federal Govern-
26 ment does not permit persons to exempt themselves

1 from those requirements, it is appropriate for the
2 Government to take steps to stem the abuse of this
3 system.

4 (4) A Social Security number is simply a se-
5 quence of numbers. In no meaningful sense can the
6 number itself impart knowledge or ideas. Persons do
7 not sell or transfer such numbers in order to convey
8 any particularized message, nor to express to the
9 purchaser any ideas, knowledge, or thoughts.

10 (5) A Social Security number does not contain,
11 reflect, or convey any publicly significant informa-
12 tion or concern any public issue. The sale of such
13 numbers in no way facilitates uninhibited, robust
14 and wide-open public debate; and restrictions on
15 such sale would not affect public debate.

16 (6) No one should seek to profit from the sale
17 of Social Security numbers in circumstances that
18 create a substantial risk of physical, emotional, or fi-
19 nancial harm to the individuals to whom those num-
20 bers are assigned.

21 (7) Consequently, Congress should enact legis-
22 lation that will offer individuals assigned such num-
23 bers necessary protection from the sale and purchase
24 of Social Security numbers in circumstances that

1 might facilitate unlawful conduct or that might oth-
2 erwise likely result in unfair and deceptive practices.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) COMMISSION.—The term “Commission”
6 means the Federal Trade Commission.

7 (2) PERSON.—The term “person” means any
8 individual, partnership, corporation, trust, estate, co-
9 operative, association, or any other entity.

10 (3) SALE.—The term “sale” means obtaining,
11 directly or indirectly, anything of value in exchange
12 for a Social Security number or Social Security ac-
13 count number. Such term does not include the sub-
14 mission of such numbers as part of the process for
15 applying for any type of Government benefit or pro-
16 grams (such as grant or loan applications or welfare
17 or other public assistance programs). Such term also
18 does not include transfers of such numbers as part
19 of a data matching program under the Computer
20 Matching and Privacy Protection Act.

21 (4) PURCHASE.—The term “purchase” means
22 providing directly or indirectly, anything of value in
23 exchange for a Social Security number or Social Se-
24 curity account number. Such term does not include
25 the submission of such numbers as part of the proc-

1 ess for applying for any type of Government benefit
2 or programs (such as grant or loan applications or
3 welfare or other public assistance programs). Such
4 term also does not include transfers of such numbers
5 as part of a data matching program under the Com-
6 puter Matching and Privacy Protection Act.

7 (5) SOCIAL SECURITY NUMBER; SOCIAL SECU-
8 RITY ACCOUNT NUMBER.—The terms “Social Secu-
9 rity number” and “Social Security account number”
10 have the meaning given those terms in section 208
11 of the Social Security Act (42 U.S.C. 408).

12 (6) STATE.—The term “State” means any
13 State of the United States, the District of Columbia,
14 Puerto Rico, the Northern Mariana Islands, the
15 United States Virgin Islands, Guam, American
16 Samoa, and any territory or possession of the
17 United States.

18 **SEC. 4. REGULATION OF THE SALE AND PURCHASE OF SO-**
19 **CIAL SECURITY NUMBERS AND SOCIAL SECU-**
20 **RITY ACCOUNT NUMBERS.**

21 (a) PROHIBITION.—It shall be unlawful for any per-
22 son to sell or purchase a Social Security number or Social
23 Security account number in a manner that violates a regu-
24 lation promulgated by the Commission under subsection
25 (b) of this section.

1 (b) REGULATIONS.—

2 (1) RESTRICTIONS AUTHORIZED.—The Com-
3 mission, after consultation with the Commissioner of
4 Social Security, the Attorney General, and other
5 agencies as the Commission deems appropriate, shall
6 promulgate regulations restricting the sale and pur-
7 chase of Social Security numbers and Social Secu-
8 rity account numbers and any unfair or deceptive
9 acts or practices in connection with the sale and
10 purchase of Social Security numbers and Social Se-
11 curity account numbers.

12 (2) LIMITATIONS ON RESTRICTIONS.—In pro-
13 mulgating such regulations, the Commission shall
14 impose restrictions and conditions on the sale and
15 purchase of Social Security numbers and Social Se-
16 curity account numbers that are no broader than
17 necessary—

18 (A) to provide reasonable assurance that
19 Social Security numbers and Social Security ac-
20 count numbers will not be used to commit or
21 facilitate fraud, deception, or crime; and

22 (B) to prevent an undue risk of bodily,
23 emotional, or financial harm to individuals.

24 For purposes of subparagraph (B), the Commission
25 shall consider the nature, likelihood, and severity of

1 the anticipated harm; the nature, likelihood, and ex-
2 tent of any benefits that could be realized from the
3 sale or purchase of the numbers; and any other rel-
4 evant factors.

5 (3) EXCEPTIONS.—The regulations promul-
6 gated pursuant to paragraph (1) shall include excep-
7 tions which permit the sale and purchase of Social
8 Security numbers and Social Security account num-
9 bers—

10 (A) to the extent necessary for law enforce-
11 ment or national security purposes;

12 (B) to the extent necessary for public
13 health purposes;

14 (C) to the extent necessary in emergency
15 situations to protect the health or safety of 1
16 or more individuals;

17 (D) to the extent necessary for research
18 conducted for the purpose of advancing public
19 knowledge, on the condition that the researcher
20 provides adequate assurances that—

21 (i) the Social Security numbers or So-
22 cial Security account numbers will not be
23 used to harass, target, or publicly reveal
24 information concerning any identifiable in-
25 dividuals;

1 (ii) information about identifiable in-
2 dividuals obtained from the research will
3 not be used to make decisions that directly
4 affect the rights, benefits, or privileges of
5 specific individuals; and

6 (iii) the researcher has in place appro-
7 priate safeguards to protect the privacy
8 and confidentiality of any information
9 about identifiable individuals;

10 (E) to the extent consistent with an indi-
11 vidual's voluntary and affirmative written con-
12 sent to the sale or purchase of a Social Security
13 number or Social Security account number that
14 has been assigned to that individual; and

15 (F) under other appropriate circumstances
16 as the Commission may determine and as are
17 consistent with the findings in section 2 and the
18 principles in paragraph (2).

19 (c) RULEMAKING.—

20 (1) DEADLINE FOR ACTION.—Not later than 1
21 year after the date of enactment of this Act, the
22 Commission shall promulgate the regulations under
23 subsection (b) of this section, in accordance with
24 section 553 of title 5, United States Code.

1 (2) EFFECTIVE DATES.—Subsection (a) and the
2 regulations promulgated under subsection (b) shall
3 take effect 30 days after the date on which the final
4 regulations issued under this section are published
5 in the Federal Register.

6 (d) ENFORCEMENT.—Any violation of a regulation
7 promulgated under subsection (b) of this section shall be
8 treated as a violation of a regulation under section
9 18(a)(1)(B) of the Federal Trade Commission Act (15
10 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts
11 or practices.

12 (e) ADMINISTRATION AND APPLICABILITY OF ACT.—

13 (1) THE COMMISSION.—The Commission shall
14 prevent any person from violating this section, and
15 any regulation promulgated thereunder, in the same
16 manner, by the same means, and with the same ju-
17 risdiction, powers, and duties as though all applica-
18 ble terms and provisions of the Federal Trade Com-
19 mission Act (15 U.S.C. 41 et seq.) were incor-
20 porated into and made a part of this Act. Any per-
21 son who violates such regulation shall be subject to
22 the penalties and entitled to the privileges and im-
23 munities provided in the Federal Trade Commission
24 Act (15 U.S.C. 41 et seq.) as though all applicable
25 terms and provisions of the Federal Trade Commis-

1 sion Act (15 U.S.C. 41 et seq.) were incorporated
2 into and made a part of this Act. Nothing contained
3 in this Act shall be construed to limit the authority
4 of the Commission under any other provision of law.

5 (2) ACTIONS BY STATES.—

6 (A) CIVIL ACTIONS.—In any case in which
7 the attorney general of a State has reason to
8 believe that an interest of the residents of that
9 State has been or is threatened or adversely af-
10 fected by an act or practice that violates any
11 regulation of the Commission promulgated
12 under subsection (b), the State, as *parens*
13 *patriae*, may bring a civil action on behalf of
14 the residents of the State in a district court of
15 the United States of appropriate jurisdiction,
16 to—

17 (i) enjoin that act or practice;

18 (ii) enforce compliance with the regu-
19 lation;

20 (iii) obtain damages, restitution, or
21 other compensation on behalf of residents
22 of the State; or

23 (iv) obtain such other legal and equi-
24 table relief as the district court may con-
25 sider to be appropriate.

1 Before filing an action under this subsection,
2 the attorney general of the State involved shall
3 provide to the Commission and to the Attorney
4 General a written notice of that action and a
5 copy of the complaint for that action. If the
6 State attorney general determines that it is not
7 feasible to provide the notice described in this
8 subparagraph before the filing of the action, the
9 State attorney general shall provide the written
10 notice and the copy of the complaint to the
11 Commission and to the Attorney General as
12 soon after the filing of the complaint as prac-
13 ticable.

14 (B) COMMISSION AND ATTORNEY GENERAL
15 AUTHORITY.—On receiving notice under sub-
16 paragraph (A), the Commission and the Attor-
17 ney General each shall have the right—

18 (i) to move to stay the action, pending
19 the final disposition of a pending Federal
20 matter as described in subparagraph (C);

21 (ii) to intervene in an action under
22 clause (i);

23 (iii) upon so intervening, to be heard
24 on all matters arising therein; and

25 (iv) to file petitions for appeal.

1 (C) PENDING CRIMINAL PROCEEDINGS.—If
2 the Attorney General has instituted a criminal
3 proceeding or the Commission has instituted a
4 civil action for a violation of this Act or any
5 regulations thereunder, no State may, during
6 the pendency of such proceeding or action,
7 bring an action under this section against any
8 defendant named in the criminal proceeding or
9 civil action for any violation of this section that
10 is alleged in that proceeding or action.

11 (D) RULE OF CONSTRUCTION.—For pur-
12 poses of bringing any civil action under sub-
13 paragraph (A), nothing in this Act shall be con-
14 strued to prevent an attorney general of a State
15 from exercising the powers conferred on the at-
16 torney general by the laws of that State to con-
17 duct investigations, administer oaths and affir-
18 mations, or compel the attendance of witnesses
19 or the production of documentary and other evi-
20 dence.

21 (E) VENUE; SERVICE OF PROCESS.—Any
22 action brought under this section may be
23 brought in any district court of the United
24 States that meets applicable requirements relat-
25 ing to venue under section 1391 of title 28,

1 United States Code. In an action brought under
2 this section, process may be served in any dis-
3 trict in which the defendant is an inhabitant or
4 may be found.

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