

106TH CONGRESS
2D SESSION

S. 2699

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 SENATE OF THE UNITED STATES

JUNE 8, 2000

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Finance

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 2000”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

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

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

1 the Federal Government to take steps to stem the
2 abuse of this system.

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

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

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

20 (7) Consequently, Congress should enact legis-
21 lation that will offer individuals assigned such num-
22 bers necessary protection from the sale and purchase
23 of social security numbers in circumstances that
24 might facilitate unlawful conduct or that might oth-
25 erwise likely result in unfair and deceptive practices.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) COMMISSION.—The term “Commission”
4 means the Federal Trade Commission.

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

8 (3) SALE.—

9 (A) IN GENERAL.—The term “sale” means
10 obtaining, directly or indirectly, anything of
11 value in exchange for a social security number
12 or social security account number.

13 (B) EXCLUSIONS.—Such term does not
14 include—

15 (i) the submission of such a number
16 as part of the process for applying for any
17 type of government benefit or program
18 (such as a grant or loan application or a
19 welfare or other public assistance pro-
20 gram); or

21 (ii) transfers of such a number as
22 part of a data matching program under
23 the Computer Matching and Privacy Pro-
24 tection Act of 1988 (5 U.S.C. 552a note;
25 Public Law 100–503; 102 Stat. 2507).

26 (4) PURCHASE.—

1 (A) IN GENERAL.—The term “purchase”
2 means providing directly or indirectly, anything
3 of value in exchange for a social security num-
4 ber or social security account number.

5 (B) EXCLUSIONS.—Such term does not
6 include—

7 (i) the submission of such a number
8 as part of the process for applying for any
9 type of government benefit or program
10 (such as a grant or loan application or a
11 welfare or other public assistance pro-
12 gram); or

13 (ii) transfers of such a number as
14 part of a data matching program under
15 the Computer Matching and Privacy Pro-
16 tection Act of 1988 (5 U.S.C. 552a note;
17 Public Law 100–503; 102 Stat. 2507).

18 (5) SOCIAL SECURITY NUMBER; SOCIAL SECU-
19 RITY ACCOUNT NUMBER.—The terms “social secu-
20 rity number” and “social security account number”
21 have the meaning given those terms in section
22 208(c) of the Social Security Act (42 U.S.C.
23 408(c)).

24 (6) STATE.—The term “State” means any
25 State of the United States, the District of Columbia,

1 Puerto Rico, the Northern Mariana Islands, the
2 United States Virgin Islands, Guam, American
3 Samoa, and any territory or possession of the
4 United States.

5 **SEC. 4. REGULATION OF THE SALE AND PURCHASE OF SO-**
6 **CIAL SECURITY NUMBERS AND SOCIAL SECU-**
7 **RITY ACCOUNT NUMBERS.**

8 (a) PROHIBITION.—It shall be unlawful for any per-
9 son to sell or purchase a social security number or a social
10 security account number in a manner that violates a regu-
11 lation promulgated by the Commission under subsection
12 (b).

13 (b) REGULATIONS.—

14 (1) IN GENERAL.—The Commission, after con-
15 sultation with the Commissioner of Social Security,
16 the Department of Justice, and other Federal agen-
17 cies as the Commission deems appropriate, shall pro-
18 mulgate regulations restricting the sale and pur-
19 chase of social security numbers and social security
20 account numbers and any unfair or deceptive acts or
21 practices in connection with the sale and purchase of
22 social security numbers and social security account
23 numbers.

24 (2) REQUIREMENTS.—

25 (A) RESTRICTIONS AND CONDITIONS.—

1 (i) IN GENERAL.—In promulgating
2 such regulations, the Commission shall im-
3 pose restrictions and conditions on the sale
4 and purchase of social security numbers
5 and social security account numbers that
6 are no broader than necessary—

7 (I) to provide reasonable assur-
8 ances that social security numbers
9 and social security account numbers
10 will not be used to commit or facili-
11 tate fraud, deception, or crime; and

12 (II) to prevent an undue risk of
13 bodily, emotional, or financial harm to
14 an individual.

15 (ii) REQUIRED CONSIDERATIONS FOR
16 PREVENTION OF UNDUE RISK.—For pur-
17 poses of clause (i)(II), the Commission
18 shall consider—

19 (I) the nature, likelihood, and se-
20 verity of the anticipated harm;

21 (II) the nature, likelihood, and
22 extent of any benefits that could be
23 realized from the sale or purchase of
24 the numbers; and

25 (III) any other relevant factors.

1 (B) EXCEPTIONS.—The regulations pro-
2 mulgated under this subsection shall include ex-
3 ceptions which permit the sale and purchase of
4 social security numbers and social security ac-
5 count numbers—

6 (i) to the extent necessary for law en-
7 forcement or national security purposes;

8 (ii) to the extent necessary for public
9 health purposes;

10 (iii) to the extent necessary in emer-
11 gency situations to protect the health or
12 safety of one or more individuals;

13 (iv) to the extent necessary for re-
14 search conducted for the purpose of ad-
15 vancing public knowledge, on the condition
16 that the researcher provides adequate as-
17 surances that—

18 (I) the social security numbers or
19 social security account numbers will
20 not be used to harass, target, or pub-
21 licly reveal information concerning
22 any identifiable individual;

23 (II) information about identifi-
24 able individuals obtained from the re-
25 search will not be used to make deci-

1 sions that directly affect the rights,
2 benefits, or privileges of specific indi-
3 viduals; and

4 (III) the researcher has in place
5 appropriate safeguards to protect the
6 privacy and confidentiality of any in-
7 formation about identifiable individ-
8 uals;

9 (v) to the extent consistent with an
10 individual's voluntary and affirmative writ-
11 ten consent to the sale or purchase of a so-
12 cial security number or a social security
13 account number that has been assigned to
14 that individual; and

15 (vi) under other appropriate cir-
16 cumstances as the Commission may deter-
17 mine are consistent with the findings set
18 forth in section 2 and the principles set
19 forth in subparagraph (A).

20 (c) RULEMAKING.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this Act, the Commission
23 shall promulgate the regulations required under sub-
24 section (b) in accordance with section 553 of title 5,
25 United States Code.

1 (2) EFFECTIVE DATE.—Subsection (a) and the
2 regulations promulgated under subsection (b) and
3 section 208 of the Social Security Act (42 U.S.C.
4 408) (as amended by section 5) shall take effect 30
5 days after the date on which the final regulations
6 issued under subsection (b) are published in the
7 Federal Register.

8 (d) ENFORCEMENT.—Any violation of a regulation
9 promulgated under subsection (b) shall be treated in the
10 same manner as a violation of a rule promulgated under
11 section 18(a)(1)(B) of the Federal Trade Commission Act
12 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive
13 acts or practices.

14 (e) ADMINISTRATION AND APPLICABILITY OF ACT.—

15 (1) THE COMMISSION.—

16 (A) IN GENERAL.—The Commission shall
17 prevent any person from violating this section,
18 and any regulation promulgated thereunder, in
19 the same manner, by the same means, and with
20 the same jurisdiction, powers, and duties as
21 though all applicable terms and provisions of
22 the Federal Trade Commission Act (15 U.S.C.
23 41 et seq.) were incorporated into and made a
24 part of this Act.

1 (B) APPLICATION OF PENALTIES, PRIVI-
2 LEGES, AND IMMUNITIES.—Any person who vio-
3 lates such a regulation shall be subject to the
4 penalties and entitled to the privileges and im-
5 munities provided in the Federal Trade Com-
6 mission Act (15 U.S.C. 41 et seq.) as though
7 all applicable terms and provisions of the Fed-
8 eral Trade Commission Act (15 U.S.C. 41 et
9 seq.) were incorporated into and made a part of
10 this Act.

11 (C) RULE OF CONSTRUCTION.—Nothing
12 contained in this Act shall be construed to limit
13 the authority of the Commission under any
14 other provision of law.

15 (2) ACTIONS BY STATES.—

16 (A) IN GENERAL.—In any case in which
17 the Attorney General of a State has reason to
18 believe that an interest of the residents of that
19 State has been or is threatened or adversely af-
20 fected by an act or practice that violates any
21 regulation of the Commission promulgated
22 under subsection (b), the State, as *parens*
23 *patriae*, may bring a civil action on behalf of
24 the residents of the State in a district court of

1 the United States of appropriate jurisdiction,
2 to—

3 (i) enjoin that act or practice;

4 (ii) enforce compliance with the regu-
5 lation;

6 (iii) obtain damages, restitution, or
7 other compensation on behalf of residents
8 of the State; or

9 (iv) obtain such other legal and equi-
10 table relief as the district court may con-
11 sider to be appropriate.

12 Before filing an action under this paragraph,
13 the Attorney General of the State involved shall
14 provide to the Commission and to the Attorney
15 General of the United States a written notice of
16 that action and a copy of the complaint for that
17 action. If the Attorney General of the State in-
18 volved determines that it is not feasible to pro-
19 vide such notice and copy before the filing of
20 the action, the Attorney General of such State
21 shall provide the written notice and the copy of
22 the complaint to the Commission and to the At-
23 torney General of the United States as soon as
24 practicable after the filing of the complaint.

1 (B) RIGHT TO INTERVENE.—Upon receipt
2 of a notice under subparagraph (A), the Com-
3 mission and the Attorney General of the United
4 States each shall have the right—

5 (i) to move to stay the action, pending
6 the final disposition of a pending Federal
7 matter, as described in subparagraph (C);

8 (ii) to intervene in the action that is
9 the subject of the notice;

10 (iii) upon so intervening, to be heard
11 on all matters arising under the action;
12 and

13 (iv) to file petitions for appeal.

14 (C) PROHIBITION ON STATE ACTION.—If
15 the Attorney General has instituted a criminal
16 proceeding or the Commission has instituted a
17 civil action for a violation of this Act or of any
18 regulations promulgated under this Act, no
19 State may, during the pendency of such pro-
20 ceeding or action, bring an action under this
21 section against any defendant named in the
22 criminal proceeding or civil action for any viola-
23 tion of this Act that is alleged in that pro-
24 ceeding or action.

1 (D) RULE OF CONSTRUCTION.—For pur-
2 poses of bringing any civil action under sub-
3 paragraph (A), nothing in this Act shall be con-
4 strued to prevent an Attorney General of a
5 State from exercising the powers conferred on
6 that Attorney General by the laws of that State
7 to conduct investigations, administer oaths and
8 affirmations, or compel the attendance of wit-
9 nesses or the production of documentary and
10 other evidence.

11 (E) VENUE; SERVICE OF PROCESS.—Any
12 action brought under this section may be
13 brought in any district court of the United
14 States that meets applicable requirements relat-
15 ing to venue under section 1391 of title 28,
16 United States Code. In an action brought under
17 this section, process may be served in any dis-
18 trict in which the defendant is an inhabitant or
19 may be found.

20 **SEC. 5. CRIMINAL SANCTIONS UNDER THE SOCIAL SECU-**
21 **RITY ACT.**

22 Section 208 of the Social Security Act (42 U.S.C.
23 408) is amended—

1 (1) in subsection (a)(8), by striking “or compels
2 the disclosure of” and inserting “, compels the dis-
3 closure of, or knowingly sells or purchases”; and

4 (2) in subsection (c)—

5 (A) by striking “Any” and inserting “(1)
6 Any”; and

7 (B) by adding at the end the following new
8 paragraph:

9 “(2)(A) For purposes of subsection (a)(8)—

10 “(i) the term ‘sells’ means obtains, directly or
11 indirectly, anything of value in exchange for a social
12 security number or a social security account number;
13 and

14 “(ii) the term ‘purchases’ means provides, di-
15 rectly or indirectly, anything of value in exchange
16 for a social security number or a social security ac-
17 count number.

18 “(B) Such terms do not include the submission of a
19 social security number or a social security account number
20 as part of the process for applying for any type of govern-
21 ment benefit or program (such as a grant or loan applica-
22 tion or a welfare or other public assistance program) or
23 transfers of such a number as part of a data matching
24 program under the Computer Matching and Privacy Pro-

1 tention Act of 1988 (5 U.S.C. 552a note; Public Law 100–
2 503; 102 Stat. 2507).”.

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