

[109H1078]

Edward J. Markey

(Original Signature of Member)

110TH CONGRESS
1ST SESSION

H. R. _____

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

Mr. MARKEY (for himself, Mr. BARTON of Texas, Mr. DINGELL, Mr. RUSH, Mr. STEARNS, Ms. SCHAKOWSKY, Mr. GORDON of Tennessee, Ms. ESHOO, Mr. STUPAK, Mr. GENE GREEN of Texas, Ms. DEGETTE, Mrs. CAPPS, Mr. DOYLE, Ms. SOLIS, Mr. GONZALEZ, Mr. INSLEE, Ms. BALDWIN, Ms. HOOLEY, Mr. WEINER, Mr. MATIIESON, Mr. BUTTERFIELD, Mr. TERRY, ~~and~~ Mr. BURGESS) introduced the following bill; which was referred to the Committee on _____

and
Mr.
Engel
= Δ

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Social Security Num-
3 ber Protection Act of 2007”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

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

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

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

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

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

9 (2) LIMITATIONS ON RESTRICTIONS.—In pro-
10 mulgating such regulations, the Commission shall
11 impose restrictions and conditions on the sale and
12 purchase of Social Security numbers that are no
13 broader than necessary—

14 (A) to provide reasonable assurance that
15 Social Security numbers will not be used to
16 commit or facilitate fraud, deception, or crime;
17 and

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

20 For purposes of subparagraph (B), the Commission
21 shall consider the nature, likelihood, and severity of
22 the anticipated harm; the nature, likelihood, and ex-
23 tent of any benefits that could be realized from the
24 sale or purchase of the numbers; and any other rel-
25 evant factors.

1 (3) EXCEPTIONS.—The regulations promul-
2 gated pursuant to paragraph (1) shall include excep-
3 tions which permit the sale and purchase of Social
4 Security numbers—

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

7 (B) to the extent necessary for public
8 health purposes;

9 (C) to the extent necessary in emergency
10 situations to protect the health or safety of 1
11 or more individuals;

12 (D) to the extent necessary for research
13 conducted for the purpose of advancing public
14 knowledge, on the condition that the researcher
15 provides adequate assurances that—

16 (i) the Social Security numbers will
17 not be used to harass, target, or publicly
18 reveal information concerning any identifi-
19 able individuals;

20 (ii) information about identifiable in-
21 dividuals obtained from the research will
22 not be used to make decisions that directly
23 affect the rights, benefits, or privileges of
24 specific individuals; and

1 (iii) the researcher has in place appro-
2 priate safeguards to protect the privacy
3 and confidentiality of any information
4 about identifiable individuals;

5 (E) to the extent consistent with an indi-
6 vidual's voluntary and affirmative written con-
7 sent to the sale or purchase of a Social Security
8 number that has been assigned to that indi-
9 vidual;

10 (F) to the extent necessary for legitimate
11 consumer credit verification, if the Social Secu-
12 rity numbers used for such verification are re-
13 dacted in accordance with uniform redaction
14 standards established by the Commission in
15 such regulations; and

16 (G) under other appropriate circumstances
17 as the Commission may determine and as are
18 consistent with the 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 ENFORCEMENT.—

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 civil penalties in an
21 amount of \$11,000 per violation not to ex-
22 ceed a total of \$5,000,000; 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.

5 **SEC. 4. EFFECT ON OTHER LAWS.**

6 This Act supersedes any provision of a statute, regu-
7 lation, or rule of a State or political subdivision of a State
8 that expressly restricts or prohibits the sale or purchase
9 of Social Security numbers in a manner consistent with
10 the regulations promulgated under section 3(b).