

106TH CONGRESS  
1ST SESSION

# H. R. 1450

To protect the privacy of the individual with respect to the Social Security number and other personal information, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1999

Mr. KLECZKA (for himself, Mr. OBEY, Mr. BARCIA, Mr. SMITH of New Jersey, and Mr. MURTHA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, and the Judiciary, 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

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## A BILL

To protect the privacy of the individual with respect to the Social Security number and other personal information, 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 “Personal Information  
5 Privacy Act of 1999”.

**1 SEC. 2. CONFIDENTIAL TREATMENT OF CREDIT HEADER****2 INFORMATION.**

3       Section 603(d) of the Fair Credit Reporting Act (15  
4 U.S.C. 1681a(d)) is amended by inserting after the first  
5 sentence the following: “The term also includes any other  
6 identifying information of the consumer, except the name,  
7 address, and telephone number of the consumer if listed  
8 in a residential telephone directory available in the locality  
9 of the consumer.”.

**10 SEC. 3. PROTECTING PRIVACY BY PROHIBITING USE OF  
11 THE SOCIAL SECURITY NUMBER FOR COM-  
12 MERCIAL PURPOSES WITHOUT CONSENT.**

13       (a) IN GENERAL.—Part A of title XI of the Social  
14 Security Act (42 U.S.C. 1301 et seq.) is amended by add-  
15 ing at the end the following:

**16       “PROHIBITION OF CERTAIN MISUSES OF THE SOCIAL  
17                   SECURITY ACCOUNT NUMBER**

18       “SEC. 1146. (a) PROHIBITION OF COMMERCIAL AC-  
19 QUISITION OR DISTRIBUTION.—No person may buy, sell,  
20 offer for sale, take or give in exchange, or pledge or give  
21 in pledge any information for the purpose, in whole or in  
22 part, of conveying by means of such information any indi-  
23 vidual’s social security account number, or any derivative  
24 of such number, without the written consent of such indi-  
25 vidual.

1       “(b) PROHIBITION OF USE AS PERSONAL IDENTI-  
2 FICATION NUMBER.—No person may utilize any individ-  
3 ual’s social security account number, or any derivative of  
4 such number, for purposes of identification of such indi-  
5 vidual without the written consent of such individual.

6       “(c) PREREQUISITES FOR CONSENT.—In order for  
7 consent to exist under subsection (a) or (b), the person  
8 engaged in, or seeking to engage in, an activity described  
9 in such subsection shall—

10           “(1) inform the individual of all the purposes  
11 for which the number will be utilized and the per-  
12 sons to whom the number will be known; and

13           “(2) obtain affirmatively expressed consent in  
14 writing.

15       “(d) EXCEPTIONS.—Nothing in this section shall be  
16 construed to prohibit any use of social security account  
17 numbers permitted or required under section 205(c)(2) of  
18 this Act, section 7(a)(2) of the Privacy Act of 1974 (5  
19 U.S.C. 552a note; 88 Stat. 1909), or section 6109(d) of  
20 the Internal Revenue Code of 1986.

21       “(e) CIVIL ACTION IN UNITED STATES DISTRICT  
22 COURT; DAMAGES; ATTORNEYS FEES AND COSTS; NON-  
23 EXCLUSIVE NATURE OF REMEDY.—

24           “(1) IN GENERAL.—Any individual aggrieved  
25 by any act of any person in violation of this section

1 may bring a civil action in a United States district  
2 court to recover—

3                 “(A) such preliminary and equitable relief  
4                 as the court determines to be appropriate; and

5                 “(B) the greater of—

6                         “(i) actual damages; and

7                         “(ii) liquidated damages of \$25,000  
8                 or, in the case of a violation that was will-  
9                 ful and resulted in profit or monetary gain,  
10                 \$50,000.

11                 “(2) ATTORNEY’S FEES AND COSTS.—In the  
12                 case of a civil action brought under paragraph (1)  
13                 in which the aggrieved individual has substantially  
14                 prevailed, the court may assess against the respond-  
15                 ent a reasonable attorney’s fee and other litigation  
16                 costs and expenses (including expert fees) reasonably  
17                 incurred.

18                 “(3) STATUTE OF LIMITATIONS.—No action  
19                 may be commenced under this subsection more than  
20                 3 years after the date on which the violation was or  
21                 should reasonably have been discovered by the ag-  
22                 grieved individual.

23                 “(4) NONEXCLUSIVE REMEDY.—The remedy  
24                 provided under this subsection shall be in addition to  
25                 any other lawful remedy available to the individual.

1       “(f) CIVIL MONEY PENALTIES.—

2           “(1) IN GENERAL.—Any person who the Com-  
3 missioner of Social Security determines has violated  
4 this section shall be subject, in addition to any other  
5 penalties that may be prescribed by law, to—

6           “(A) a civil money penalty of not more  
7 than \$25,000 for each such violation, and

8           “(B) a civil money penalty of not more  
9 than \$500,000, if violations have occurred with  
10 such frequency as to constitute a general busi-  
11 ness practice.

12         “(2) DETERMINATION OF VIOLATIONS.— Any  
13 violation committed contemporaneously with respect  
14 to the social security account numbers of 2 or more  
15 individuals by means of mail, telecommunication, or  
16 otherwise shall be treated as a separate violation  
17 with respect to each such individual.

18         “(3) ENFORCEMENT PROCEDURES.—The provi-  
19 sions of section 1128A (other than subsections (a),  
20 (b), (f), (h), (i), (j), and (m), and the first sentence  
21 of subsection (c)) and the provisions of subsections  
22 (d) and (e) of section 205 shall apply to civil money  
23 penalties under this subsection in the same manner  
24 as such provisions apply to a penalty or proceeding  
25 under section 1128A(a), except that, for purposes of

1       this paragraph, any reference in section 1128A to  
2       the Secretary shall be deemed a reference to the  
3       Commissioner of Social Security.

4                 “(4) COORDINATION WITH CRIMINAL ENFORCE-  
5       MENT.—The Commissioner of Social Security shall  
6       take such actions as are necessary and appropriate  
7       to assure proper coordination of the enforcement of  
8       the provisions of this section with criminal enforce-  
9       ment under section 1028 of title 18, United States  
10      Code (relating to fraud and related activity in con-  
11      nection with identification documents). The Commis-  
12      sioner shall enter into cooperative arrangements with  
13      the Federal Trade Commission under section 5 of  
14      the Identity Theft and Assumption Deterrence Act  
15      of 1998 for purposes of achieving such coordination.

16                 “(g) REGULATION BY STATES.—Nothing in this sec-  
17      tion shall be construed to prohibit any State authority  
18      from enacting or enforcing laws consistent with this sec-  
19      tion for the protection of privacy.”.

20                 (b) EFFECTIVE DATE.—The amendment made by  
21      subsection (a) applies with respect to violations occurring  
22      on and after the date which is 2 years after the date of  
23      enactment of this Act.

24                 (c) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—Any  
25      person who refuses to do business with an individual be-

1 cause the individual will not consent to that person receiv-  
2 ing the social security number of such individual shall be  
3 considered to have committed an unfair or deceptive act  
4 or practice in violation of section 5 of the Federal Trade  
5 Commission Act (15 U.S.C. 45). Action may be taken  
6 under such section 5 against such a person.

7 **SEC. 4. RESTRICTION ON USE OF SOCIAL SECURITY NUM-**  
8 **BERS BY STATE DEPARTMENTS OF MOTOR**  
9 **VEHICLES.**

10 (a) RESTRICTION ON GOVERNMENTAL USE.—Section  
11 2721(b)(1) of title 18, United States Code, is amended  
12 by striking “its functions.” and inserting “its functions,  
13 but in the case of social security numbers, only to the ex-  
14 tent permitted or required under section 205(c)(2) of the  
15 Social Security Act (42 U.S.C. 405(c)(2)), section 7(a)(2)  
16 of the Privacy Act of 1974 (5 U.S.C. 552a note, 88 Stat.  
17 1909), section 6109(d) of the Internal Revenue Code of  
18 1986, or any other provision of law specifically identifying  
19 such use.”.

20 (b) PROHIBITION OF USE BY MARKETING COMPA-  
21 NIES.—Section 2721(b)(12) of title 18, United States  
22 Code, is amended by striking “For” and inserting “Except  
23 in the case of social security numbers, for”.

1   **SEC. 5. RESTRICTION ON USE OF PHOTOGRAPHS BY STATE**

2                   **DEPARTMENTS OF MOTOR VEHICLES.**

3       (a) IN GENERAL.—Section 2721 of title 18, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing new subsection:

6       “(e) PROHIBITION ON RELEASE OR DISCLOSURE OF  
7 AN INDIVIDUAL’S PHOTOGRAPH.—

8               “(1) IN GENERAL.—Subject to paragraph (2)  
9 and notwithstanding any paragraph of subsection  
10 (b), an individual’s image, likeness, or photograph,  
11 in any form or format, obtained by a State depart-  
12 ment of motor vehicles in connection with a motor  
13 vehicle record may not be disclosed or transferred by  
14 such department, or any officer, employee, or con-  
15 tractor of the department, to any other person, or  
16 any other department or agency of any government,  
17 without the express written consent of such indi-  
18 vidual to that specific disclosure or transfer.

19               “(2) EXCLUSION FOR DISCLOSURE TO LAW EN-  
20 FORCEMENT AGENCIES.—Paragraph (1) shall not  
21 apply to the disclosure of an individual’s image, like-  
22 ness, or photograph, in any form or format, to any  
23 law enforcement agency of any government for a  
24 civil or criminal law enforcement activity if the activ-  
25 ity is authorized by law, and if the head of the agen-  
26 cy has made a written request to the State depart-

1       ment of motor vehicles which maintains the image,  
2       likeness, or photograph specifying the particular  
3       image, likeness, or photograph sought and the law  
4       enforcement activity for which the image, likeness,  
5       or photograph is sought.”.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

7                   (1) Section 2721 of title 18, United States  
8 Code, is amended—

12 (B) in subsection (b) by inserting “, other  
13 than an individual’s image, likeness, or photo-  
14 graph, in any form or format,” after “Personal  
15 information referred to in subsection (a)”.

19 SEC. 6. REPEAL OF CERTAIN PROVISIONS RELATING TO  
20 DISTRIBUTION OF CONSUMER REPORTS IN  
21 CONNECTION WITH CERTAIN TRANSACTIONS  
22 NOT INITIATED BY THE CONSUMER.

23       (a) IN GENERAL.—Paragraph (1) of section 604(c)  
24 of the Fair Credit Reporting Act (15 U.S.C. 1681b(c))  
25 is amended by striking “any credit or insurance trans-

1 action that is not initiated by the consumer only if—” and  
2 all that follows through the end of such paragraph and  
3 inserting “any credit or insurance transaction that is not  
4 initiated by the consumer only if the consumer provides  
5 express written authorization, in accordance with para-  
6 graph (2), to the agency to provide such report in connec-  
7 tion with any such transaction.”

8 (b) FULL DISCLOSURE REQUIRED.—Paragraph (2)  
9 of section 604(c) of the Fair Credit Reporting Act (15  
10 U.S.C. 1681b(c)) is amended to read as follows:

11 “(2) FULL DISCLOSURE REQUIRED.—  
12 “(A) IN GENERAL.—No authorization re-  
13 ferred to in paragraph (1) with respect to any  
14 consumer shall be effective unless the consumer  
15 receives a notice before such authorization is  
16 provided which fully and fairly discloses, in ac-  
17 cordance with regulations which the Federal  
18 Trade Commission and the Board of Governors  
19 of the Federal Reserve System shall jointly pre-  
20 scribe, what specifically is being authorized by  
21 the consumer and the potential positive and  
22 negative effects the provision of such authoriza-  
23 tion will have on the consumer.

24 “(B) FORM OF NOTICE.—The regulations  
25 prescribed pursuant to subparagraph (A) shall

1           require that the notice required under such  
2           subparagraph—

3                 “(i) be prominently displayed on a  
4                 document which is separate from any other  
5                 document; or

6                 “(ii) if the notice appears on a docu-  
7                 ment with other information, be placed in  
8                 a clear and conspicuous location on such  
9                 document and appear in type face which is  
10                 more conspicuous than the type face used  
11                 for any other information on such docu-  
12                 ment.”.

13           (c) TECHNICAL AND CONFORMING AMENDMENT.—  
14 Subsection (e) of section 604 of the Fair Credit Reporting  
15 Act (15 U.S.C. 1681b) is amended to read as follows:

16                 “(e) [Repealed]”.

17 **SEC. 7. SALE OR TRANSFER OF TRANSACTION OR EXPERI-  
18                 ENCE INFORMATION PROHIBITED.**

19           (a) IN GENERAL.—The Fair Credit Reporting Act  
20 (15 U.S.C. 1681 et seq.) is amended by adding at the end  
21 the following new section:

22 **“§ 626. Transaction or experience information**

23                 “(a) IN GENERAL.—No person doing business with  
24 a consumer may sell, transfer, or otherwise provide to any  
25 other person, for the purpose of marketing such informa-

1 tion to any other person, any transaction or experience  
2 information without the consumer's express written con-  
3 sent.

4       “(b) TRANSACTION OR EXPERIENCE INFORMATION  
5 DEFINED.—For purposes of this section, the term ‘trans-  
6 action or experience information’ means any information  
7 identifying the content or subject of 1 or more trans-  
8 actions between the consumer and a person doing business  
9 with a consumer, including any component part of any  
10 transaction, any brand name involved, or any quantity or  
11 category of merchandise involved in any part of the trans-  
12 action.

13       “(c) EXCEPTIONS.—Subsection (a) shall not apply  
14 with respect to the following:

15           “(1) Communication of transaction or experi-  
16 ence information solely among persons related by  
17 common ownership or affiliated by corporate control.

18           “(2) Information provided pursuant to the  
19 order of a court having jurisdiction to issue such  
20 order or pursuant to a subpoena issued in connec-  
21 tion with proceedings before a Federal grand jury.

22           “(3) Information provided in connection with  
23 the licensing or registration by a government agency  
24 or department, or any transfer of such license or

1 registration, of any personal property bought, sold,  
2 or transferred by the consumer.

3 “(4) Information required to be provided in  
4 connection with any transaction in real estate.

5 “(5) Information required to be provided in  
6 connection with perfecting a security interest in per-  
7 sonal property.

8 “(6) Information relating to the amount of any  
9 transaction or any credit extended in connection  
10 with a transaction with a consumer.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
12 Section 603(d)(2)(A) is amended by striking “(A) any—  
13 ” and inserting “(A) subject to section 626, any—”.

14 (c) CLERICAL AMENDMENT.—The table of sections  
15 for the Fair Credit Reporting Act is amended by adding  
16 at the end the following new item:

“626. Transaction or experience information.”.

