

107TH CONGRESS
1ST SESSION

H. R. 2136

To protect the confidentiality of information acquired from the public for statistical purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2001

Mr. SAWYER (for himself and Mr. WAXMAN) introduced the following bill;
which was referred to the Committee on Government Reform

A BILL

To protect the confidentiality of information acquired from the public for statistical 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 “Confidential Informa-
5 tion Protection Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Consumers, citizens, businesses, and other
9 organizations have varying degrees of legal protec-

1 tion when providing information to the Federal Gov-
2 ernment for strictly statistical purposes.

3 (2) The integrity and credibility of pledges of
4 confidentiality by the Federal Government provide
5 assurances to the public that information about indi-
6 viduals or organizations or provided by individuals
7 or organizations for exclusively statistical purposes
8 will be held in confidence and will not be used
9 against such individuals or organizations in any
10 Federal Government action.

11 (3) Protecting the privacy and confidentiality
12 interests of individuals or organizations who provide
13 information for Federal statistical programs serves
14 both the interests of the public and the needs of so-
15 ciety.

16 (4) Declining trust of the public in the protec-
17 tion of information provided to the Federal Govern-
18 ment adversely affects both the accuracy and com-
19 pleteness of statistical analyses.

20 (5) Ensuring that information provided for sta-
21 tistical purposes receives protection is essential in
22 continuing public cooperation in statistical pro-
23 grams.

24 (b) PURPOSES.—The purposes of this Act are the fol-
25 lowing:

1 (1) To ensure that information supplied by in-
2 dividuals or organizations to an agency for statistical
3 purposes is used exclusively for statistical purposes.

4 (2) To ensure that individuals or organizations
5 who supply information to the Federal Government
6 for statistical purposes will not have that informa-
7 tion disclosed in identifiable form for any purpose
8 other than a statistical purpose, without the consent
9 of such individuals or organizations.

10 (3) To safeguard the confidentiality of individ-
11 ually identifiable information acquired for statistical
12 purposes by controlling access to, and uses made of,
13 such information.

14 (4) To respect the rights and privileges of the
15 public by observing and promoting fair information
16 practices.

17 **SEC. 3. DEFINITIONS.**

18 As used in this Act:

19 (1) The term “respondent” means a person
20 who, or organization that, is requested or required
21 to supply information to an agency, is the subject of
22 information requested or required to be supplied to
23 an agency, or provides that information to an agen-
24 cy.

1 (2) The term “identifiable form” means any
2 representation of information that permits informa-
3 tion concerning individual subjects to be reasonably
4 inferred by either direct or indirect means.

5 (3) The term “nonstatistical purpose” means
6 use of data in identifiable form for any purpose that
7 is not a statistical purpose, and includes any admin-
8 istrative, regulatory, law enforcement, adjudicatory,
9 or other purpose that affects the rights, privileges,
10 or benefits of a particular identifiable respondent.

11 (4) The term “agency” means any entity that
12 falls within the definition of the term “executive
13 agency” as defined in section 102 of title 31, United
14 States Code, or “agency”, as defined in section 3502
15 of title 44, United States Code.

16 (5) The term “statistical purpose”—

17 (A) means the description, estimation, or
18 analysis of the characteristics of groups without
19 regard to the identities of individuals or organi-
20 zations that comprise such groups; and

21 (B) includes the development, implementa-
22 tion, or maintenance of methods, technical or
23 administrative procedures, or information re-
24 sources that support the purposes described in
25 subparagraph (A).

1 (6) The term “statistical agency or unit” means
2 an agency or organizational unit of the executive
3 branch whose activities are predominantly the collec-
4 tion, compilation, processing, or analysis of informa-
5 tion for statistical purposes.

6 (7) The term “agent” means a person des-
7 ignated by an executive agency to perform, either in
8 the capacity of a Federal employee or otherwise, ex-
9 clusively statistical activities under the supervision
10 or control of an officer or employee of that agency,
11 who agrees in writing to comply with all provisions
12 of law that affect information acquired by that agen-
13 cy.

14 **SEC. 4. LIMITATIONS ON USE AND DISCLOSURE OF DATA**
15 **AND INFORMATION.**

16 (a) **USE OF STATISTICAL DATA OR INFORMATION.—**
17 Data or information acquired by an agency for exclusively
18 statistical purposes shall be used by the agency only for
19 statistical purposes.

20 (b) **DISCLOSURE OF STATISTICAL DATA OR INFOR-**
21 **MATION.—**Data or information acquired by an agency for
22 exclusively statistical purposes shall not be disclosed by
23 an agency in identifiable form, for any purpose other than
24 a statistical purpose, without the informed consent of the
25 respondent.

1 (c) **RULE FOR USE OF DATA OR INFORMATION FOR**
2 **NONSTATISTICAL PURPOSES.**—A statistical agency or
3 unit shall clearly distinguish any data or information it
4 collects for nonstatistical purposes (as authorized by law)
5 by a rule that provides that the respondent supplying the
6 data or information is fully informed, before the data or
7 information is collected, that the data or information will
8 be used for nonstatistical purposes.

9 (d) **DESIGNATION OF AGENTS.**—A statistical agency
10 or unit may designate agents who may perform exclusively
11 statistical activities, subject to the limitations and pen-
12 alties described in this Act.

13 **SEC. 5. COORDINATION AND OVERSIGHT OF POLICIES.**

14 (a) **IN GENERAL.**—The Director of the Office of
15 Management and Budget shall coordinate and oversee the
16 confidentiality and disclosure policies established by this
17 Act.

18 (b) **REVIEW AND APPROVAL OF RULES.**—The Direc-
19 tor shall review any rules proposed by an agency pursuant
20 to this Act for consistency with the provisions of this Act
21 and chapter 35 of title 44, United States Code, and such
22 rules shall be subject to the approval of the Director.

23 **SEC. 6. EFFECT ON OTHER LAWS.**

24 (a) **TITLE 44, U.S.C.**—This Act does not diminish
25 the authority under section 3510 of title 44, United States

1 Code, of the Director of the Office of Management and
2 Budget to direct, and of an agency to make, disclosures
3 that are not inconsistent with any applicable law.

4 (b) EXEMPTION FROM FREEDOM OF INFORMATION
5 ACT.—Data or information acquired for exclusively statis-
6 tical purposes as described in section 4 is exempt from
7 mandatory disclosure under section 552 of title 5, United
8 States Code, pursuant to section 552(b)(3) of such title.

9 (c) PREEMPTION OF STATE LAW.—Nothing in this
10 Act shall preempt applicable State law regarding the con-
11 fidentiality of data collected by the States.

12 (d) CONSTRUCTION.—Nothing in this Act shall be
13 construed as restricting or diminishing any confidentiality
14 protections that otherwise apply to data or information
15 collected for statistical purposes or nonstatistical pur-
16 poses.

17 **SEC. 7. DISCLOSURE PENALTIES.**

18 An officer, employee, or agent of an agency who
19 knowingly, without the informed consent of the respond-
20 ent, discloses in identifiable form, for any purpose other
21 than a statistical purpose, data or information acquired
22 by an agency for an exclusively statistical purpose, shall
23 be found guilty of a class E felony and imprisoned for

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- 1 not more than 5 years, or fined not more than \$250,000,
- 2 or both.

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