

107TH CONGRESS  
1ST SESSION

# S. 848

To amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

MAY 9, 2001

Mrs. FEINSTEIN (for herself and Mr. GREGG) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, 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; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Social Security Number Misuse Prevention Act of 2001”.

6       (b) TABLE OF CONTENTS.—The table of contents of  
7       this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Prohibition of the display, sale, or purchase of social security numbers.

Sec. 4. No prohibition with respect to public records.

Sec. 5. Rulemaking authority of the Attorney General.

Sec. 6. Treatment of social security numbers on government documents.

Sec. 7. Limits on personal disclosure of a social security number for consumer transactions.

Sec. 8. Extension of civil monetary penalties for misuse of a social security number.

## 1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The inappropriate display, sale, or purchase  
4 of social security numbers has contributed to a  
5 growing range of illegal activities, including fraud,  
6 identity theft, and, in some cases, stalking and other  
7 violent 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 general display to the public, sale, or pur-  
12 chase of these numbers has been used to commit  
13 crimes, and also can result in serious invasions of in-  
14 dividual privacy.

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-

1 individuals to whom the numbers are assigned. Be-  
2 cause the Federal Government created and main-  
3 tains this system, and because the Federal Govern-  
4 ment does not permit individuals to exempt them-  
5 selves from those requirements, it is appropriate for  
6 the Federal Government to take steps to stem the  
7 abuse of this system.

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

15 (5) No one should seek to profit from the dis-  
16 play, sale, or purchase of social security numbers in  
17 circumstances that create a substantial risk of phys-  
18 ical, emotional, or financial harm to the individuals  
19 to whom those numbers are assigned.

20 (6) Consequently, this Act offers each indi-  
21 vidual that has been assigned a social security num-  
22 ber necessary protection from the display, sale, and  
23 purchase of that number in any circumstance that  
24 might facilitate unlawful conduct.

1 **SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PUR-**  
 2 **CHASE OF SOCIAL SECURITY NUMBERS.**

3 (a) PROHIBITION.—

4 (1) IN GENERAL.—Chapter 47 of title 18,  
 5 United States Code, is amended by inserting after  
 6 section 1028 the following:

7 **“§ 1028A. Prohibition of the display, sale, or purchase**  
 8 **of social security numbers**

9 “(a) DEFINITIONS.—In this section:

10 “(1) DISPLAY.—The term ‘display’ means to in-  
 11 tentiously communicate or otherwise make available  
 12 (on the Internet or in any other manner) to the gen-  
 13 eral public an individual’s social security number.

14 “(2) PERSON.—The term ‘person’ means any  
 15 individual, partnership, corporation, trust, estate, co-  
 16 operative, association, or any other entity.

17 “(3) PURCHASE.—The term ‘purchase’ means  
 18 providing directly or indirectly, anything of value in  
 19 exchange for a social security number.

20 “(4) SALE.—The term ‘sale’ means obtaining,  
 21 directly or indirectly, anything of value in exchange  
 22 for a social security number.

23 “(5) STATE.—The term ‘State’ means any  
 24 State of the United States, the District of Columbia,  
 25 Puerto Rico, the Northern Mariana Islands, the  
 26 United States Virgin Islands, Guam, American

1 Samoa, and any territory or possession of the  
2 United States.

3 “(b) LIMITATION ON DISPLAY.—Except as provided  
4 in section 1028B, no person may display any individual’s  
5 social security number to the general public without the  
6 affirmatively expressed consent of the individual.

7 “(c) LIMITATION ON SALE OR PURCHASE.—Except  
8 as otherwise provided in this section, no person may sell  
9 or purchase any individual’s social security number with-  
10 out the affirmatively expressed consent of the individual.

11 “(d) PROHIBITION OF WRONGFUL USE AS PER-  
12 SONAL IDENTIFICATION NUMBER.—No person may obtain  
13 any individual’s social security number for purposes of lo-  
14 cating or identifying an individual with the intent to phys-  
15 ically injure, harm, or use the identity of the individual  
16 for any illegal purpose.

17 “(e) PREREQUISITES FOR CONSENT.—In order for  
18 consent to exist under subsection (b) or (c), the person  
19 displaying or seeking to display, selling or attempting to  
20 sell, or purchasing or attempting to purchase, an individ-  
21 ual’s social security number shall—

22 “(1) inform the individual of the general pur-  
23 pose for which the number will be used, the types of  
24 persons to whom the number may be available, and

1 the scope of transactions permitted by the consent;  
 2 and

3 “(2) obtain the affirmatively expressed consent  
 4 (electronically or in writing) of the individual.

5 “(f) EXCEPTIONS.—

6 “(1) IN GENERAL.—Except as provided in sub-  
 7 section (d), nothing in this section shall be construed  
 8 to prohibit or limit the display, sale, or purchase of  
 9 a social security number—

10 “(A) permitted, required, or excepted, ex-  
 11 pressly or by implication, under section  
 12 205(c)(2), 1124A(a)(3), or 1141(c) of the So-  
 13 cial Security Act (42 U.S.C. 405(c)(2), 1320a-  
 14 3a(a)(3), and 1320b-11(c)), section 7(a)(2) of  
 15 the Privacy Act of 1974 (5 U.S.C. 552a note),  
 16 section 6109(d) of the Internal Revenue Code  
 17 of 1986, or section 6(b)(1) of the Professional  
 18 Boxing Safety Act of 1996 (15 U.S.C.  
 19 6305(b)(1));

20 “(B) for a public health purpose, including  
 21 the protection of the health or safety of an indi-  
 22 vidual in an emergency situation;

23 “(C) for a national security purpose;

24 “(D) for a law enforcement purpose, in-  
 25 cluding the investigation of fraud, as required

1 under subchapter II of chapter 53 of title 31,  
2 United States Code, and chapter 2 of title I of  
3 Public Law 91–508 (12 U.S.C. 1951–1959),  
4 and the enforcement of a child support obliga-  
5 tion;

6 “(E) if the display, sale, or purchase of the  
7 number is for a business-to-business use, in-  
8 cluding, but not limited to—

9 “(i) the prevention of fraud (including  
10 fraud in protecting an employee’s right to  
11 employment benefits);

12 “(ii) the facilitation of credit checks  
13 or the facilitation of background checks of  
14 employees, prospective employees, and vol-  
15 unteers;

16 “(iii) compliance with any require-  
17 ment related to the social security program  
18 established under title II of the Social Se-  
19 curity Act (42 U.S.C. 401 et seq.); or

20 “(iv) the retrieval of other information  
21 from, or by, other businesses, commercial  
22 enterprises, or private nonprofit organiza-  
23 tions,

24 except that, nothing in this subparagraph shall  
25 be construed as permitting a professional or

1 commercial user to display or sell a social secu-  
 2 rity number to the general public;

3 “(F) if the transfer of such a number is  
 4 part of a data matching program under the  
 5 Computer Matching and Privacy Protection Act  
 6 of 1988 (5 U.S.C. 552a note) or any similar  
 7 computer data matching program involving a  
 8 Federal, State, or local agency; or

9 “(G) if such number is required to be sub-  
 10 mitted as part of the process for applying for  
 11 any type of Federal, State, or local government  
 12 benefit or program.

13 “(g) CIVIL ACTION IN UNITED STATES DISTRICT  
 14 COURT; DAMAGES; ATTORNEY’S FEES AND COSTS.—

15 “(1) IN GENERAL.—Any individual aggrieved  
 16 by any act of any person in violation of this section  
 17 may bring a civil action in a United States district  
 18 court to recover—

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

21 “(B) the greater of—

22 “(i) actual damages;

23 “(ii) liquidated damages of \$2,500; or



1                   “(iii) in the case of a violation that  
 2                   was willful and resulted in profit or mone-  
 3                   tary gain, liquidated damages of \$10,000.

4                   “(2) STATUTE OF LIMITATIONS.—No action  
 5                   may be commenced under this subsection more than  
 6                   3 years after the date on which the violation was or  
 7                   should reasonably have been discovered by the ag-  
 8                   grieved individual.

9                   “(3) NONEXCLUSIVE REMEDY.—The remedy  
 10                  provided under this subsection shall be in addition to  
 11                  any other remedy available to the individual.

12                  “(h) CIVIL PENALTIES.—

13                  “(1) IN GENERAL.—Any person who the Attor-  
 14                  ney General determines has violated this section  
 15                  shall be subject, in addition to any other penalties  
 16                  that may be prescribed by law—

17                         “(A) to a civil penalty of not more than  
 18                         \$5,000 for each such violation; and

19                         “(B) to a civil penalty of not more than  
 20                         \$50,000, if the violations have occurred with  
 21                         such frequency as to constitute a general busi-  
 22                         ness practice.

23                  “(2) DETERMINATION OF VIOLATIONS.—Any  
 24                  willful violation committed contemporaneously with  
 25                  respect to the social security numbers of 2 or more

1 individuals by means of mail, telecommunication, or  
 2 otherwise, shall be treated as a separate violation  
 3 with respect to each such individual.

4 “(3) ENFORCEMENT PROCEDURES.—The provi-  
 5 sions of section 1128A of the Social Security Act  
 6 (42 U.S.C. 1320a–7a), other than subsections (a),  
 7 (b), (f), (h), (i), (j), (m), and (n) and the first sen-  
 8 tence of subsection (c) of such section, and the pro-  
 9 visions of subsections (d) and (e) of section 205 of  
 10 such Act (42 U.S.C. 405) shall apply to a civil pen-  
 11 alty under this subsection in the same manner as  
 12 such provisions apply to a penalty or proceeding  
 13 under section 1128A(a) of such Act (42 U.S.C.  
 14 1320a–7a(a)), except that, for purposes of this para-  
 15 graph, any reference in section 1128A of such Act  
 16 (42 U.S.C. 1320a–7a) to the Secretary shall be  
 17 deemed to be a reference to the Attorney General.”.

18 (2) CONFORMING AMENDMENT.—The chapter  
 19 analysis for chapter 47 of title 18, United States  
 20 Code, is amended by inserting after the item relating  
 21 to section 1028 the following:

“1028A. Prohibition of the display, sale, or purchase of social security num-  
 bers.”.

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

1           (1) in paragraph (8), by inserting “or” after  
2           the semicolon; and

3           (2) by inserting after paragraph (8) the fol-  
4           lowing new paragraphs:

5           “(9) except as provided in paragraph (5) of sec-  
6           tion 1028A(a) of title 18, United States Code, know-  
7           ingly and willfully displays, sells, or purchases (as  
8           those terms are defined in paragraph (1) of such  
9           section) any individual’s social security number (as  
10          defined in such paragraph) without the affirmatively  
11          expressed consent of that individual after having met  
12          the prerequisites for consent under paragraph (4) of  
13          such section, electronically or in writing, with re-  
14          spect to that individual; or

15          “(10) obtains any individual’s social security  
16          number for the purpose of locating or identifying the  
17          individual with the intent to injure or to harm that  
18          individual, or to use the identity of that individual  
19          for an illegal purpose;”.

20          (c) EFFECTIVE DATE.—Section 1028A of title 18,  
21          United States Code (as added by subsection (a)), and sec-  
22          tion 208 of the Social Security Act (42 U.S.C. 408) (as  
23          amended by subsection (b)) shall take effect 30 days after  
24          the date on which the final regulations promulgated under  
25          section 5(b) are published in the Federal Register.

1 **SEC. 4. NO PROHIBITION WITH RESPECT TO PUBLIC**  
2 **RECORDS.**

3 (a) PUBLIC RECORDS EXCEPTION.—

4 (1) IN GENERAL.—Chapter 47 of title 18,  
5 United States Code (as amended by section 3(a)(1)),  
6 is amended by inserting after section 1028A the fol-  
7 lowing:

8 **“§ 1028B. No prohibition of the display, sale, or pur-**  
9 **chase of social security numbers included**  
10 **in public records**

11 “(a) IN GENERAL.—Nothing in section 1028A shall  
12 be construed to prohibit or limit the display, sale, or pur-  
13 chase of any public record which includes a social security  
14 number that—

15 “(1) is incidentally included in a public record,  
16 as defined in subsection (d);

17 “(2) is intended to be purchased, sold, or dis-  
18 played pursuant to an exception contained in section  
19 1028A(f);

20 “(3) is intended to be purchased, sold, or dis-  
21 played pursuant to the consent provisions of sub-  
22 sections (b), (c), and (e) of section 1028A; or

23 “(4) includes a redaction of the nonincidental  
24 occurrences of the social security numbers when sold  
25 or displayed to members of the general public.

1       “(b) AGENCY REQUIREMENTS.—Each agency in pos-  
2 session of documents that contain social security numbers  
3 which are nonincidental, shall, with respect to such  
4 documents—

5           “(1) ensure that access to such numbers is re-  
6 stricted to persons who may obtain them in accord-  
7 ance with applicable law;

8           “(2) require an individual who is not exempt  
9 under section 1028A(f) to provide the social security  
10 number of the person who is the subject of the docu-  
11 ment before making such document available; or

12           “(3) redact the social security number from the  
13 document prior to providing a copy of the requested  
14 document to an individual who is not exempt under  
15 section 1028A(f) and who is unable to provide the  
16 social security number of the person who is the sub-  
17 ject of the document.

18       “(c) RULE OF CONSTRUCTION.—Nothing in this sec-  
19 tion shall be used as a basis for permitting or requiring  
20 a State or local government entity or other repository of  
21 public documents to expand or to limit access to docu-  
22 ments containing social security numbers to entities cov-  
23 ered by the exception in section 1028A(f).

24       “(d) DEFINITIONS.—In this section:

1           “(1) INCIDENTAL.—The term ‘incidental’  
 2           means that the social security number is not rou-  
 3           tinely displayed in a consistent and predictable man-  
 4           ner on the public record by a government entity,  
 5           such as on the face of a document.

6           “(2) PUBLIC RECORD.—The term ‘public  
 7           record’ means any item, collection, or grouping of in-  
 8           formation about an individual that is maintained by  
 9           a Federal, State, or local government entity and that  
 10          is made available to the public.”.

11          (2) CONFORMING AMENDMENT.—The chapter  
 12          analysis for chapter 47 of title 18, United States  
 13          Code (as amended by section 3(a)(2)), is amended  
 14          by inserting after the item relating to section 1028A  
 15          the following:

“1028B. No prohibition of the display, sale, or purchase of social security num-  
 bers included in public records.”.

16 **SEC. 5. RULEMAKING AUTHORITY OF THE ATTORNEY GEN-**  
 17 **ERAL.**

18          (a) IN GENERAL.—Except as provided in subsection  
 19          (b), the Attorney General may prescribe such rules and  
 20          regulations as the Attorney General deems necessary to  
 21          carry out the provisions of section 3.

22          (b) BUSINESS-TO-BUSINESS COMMERCIAL DISPLAY,  
 23          SALE, OR PURCHASE RULEMAKING.—

1           (1) IN GENERAL.—Not later than 1 year after  
2           the date of enactment of this Act, the Attorney Gen-  
3           eral, in consultation with the Commissioner of Social  
4           Security, the Federal Trade Commission, and such  
5           other Federal agencies as the Attorney General de-  
6           termines appropriate, may conduct such rulemaking  
7           procedures in accordance with subchapter II of  
8           chapter 5 of title 5, United States Code, as are nec-  
9           essary to promulgate regulations to implement and  
10          clarify the business-to-business provisions pertaining  
11          to section 1028A(f)(1)(E) of title 18, United States  
12          Code (as added by section 3(a)(1)). The Attorney  
13          General shall consult with other agencies to ensure,  
14          where possible, that these provisions are consistent  
15          with other privacy laws, including title V of the  
16          Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.).

17          (2) FACTORS TO BE CONSIDERED.—In promul-  
18          gating the regulations required under paragraph (1),  
19          the Attorney General shall, at a minimum, consider  
20          the following factors:

21                 (A) The benefit to a particular business  
22                 practice and to the general public of the sale or  
23                 purchase of an individual's social security num-  
24                 ber.

1 (B) The risk that a particular business  
 2 practice will promote the use of the social secu-  
 3 rity number to commit fraud, deception, or  
 4 crime.

5 (C) The presence of adequate safeguards  
 6 to prevent the misappropriation of social secu-  
 7 rity numbers by the general public, while per-  
 8 mitting internal business uses of such numbers.

9 (D) The implementation of procedures to  
 10 prevent identity thieves, stalkers, and others  
 11 with ill intent from posing as legitimate busi-  
 12 nesses to obtain social security numbers.

13 **SEC. 6. TREATMENT OF SOCIAL SECURITY NUMBERS ON**  
 14 **GOVERNMENT DOCUMENTS.**

15 (a) PROHIBITION OF USE OF SOCIAL SECURITY AC-  
 16 COUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY  
 17 GOVERNMENTAL AGENCIES.—

18 (1) IN GENERAL.—Section 205(c)(2)(C) of the  
 19 Social Security Act (42 U.S.C. 405(c)(2)(C)) is  
 20 amended by adding at the end the following new  
 21 clause:

22 “(x) No Federal, State, or local agency may display  
 23 the social security account number of any individual, or  
 24 any derivative of such number, on any check issued for  
 25 any payment by the Federal, State, or local agency.”.



1           (2) EFFECTIVE DATE.—The amendment made  
 2       by this subsection shall apply with respect to viola-  
 3       tions of section 205(c)(2)(C)(x) of the Social Secu-  
 4       rity Act (42 U.S.C. 405(c)(2)(C)(x)), as added by  
 5       paragraph (1), occurring after the date that is 3  
 6       years after the date of enactment of this Act.

7       (b) PROHIBITION OF APPEARANCE OF SOCIAL SECU-  
 8       RITY ACCOUNT NUMBERS ON DRIVER’S LICENSES OR  
 9       MOTOR VEHICLE REGISTRATION.—

10           (1) IN GENERAL.—Section 205(c)(2)(C)(vi) of  
 11       the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi))  
 12       is amended—

13                   (A) by inserting “(I)” after “(vi)”; and

14                   (B) by adding at the end the following new  
 15       subclause:

16       “(II)(aa) An agency of a State (or political subdivi-  
 17       sion thereof), in the administration of any driver’s license  
 18       or motor vehicle registration law within its jurisdiction,  
 19       may not disclose the social security account numbers  
 20       issued by the Commissioner of Social Security, or any de-  
 21       rivative of such numbers, on any driver’s license or motor  
 22       vehicle registration or any other document issued by such  
 23       State (or political subdivision thereof) to an individual for  
 24       purposes of identification of such individual.

1 “(bb) Nothing in this subclause shall be construed  
 2 as precluding an agency of a State (or political subdivision  
 3 thereof), in the administration of any driver’s license or  
 4 motor vehicle registration law within its jurisdiction, from  
 5 using a social security account number for an internal use  
 6 or to link with the database of an agency of another State  
 7 that is responsible for the administration of any driver’s  
 8 license or motor vehicle registration law.”.

9 (2) EFFECTIVE DATE.—The amendment made  
 10 by this subsection shall apply with respect to li-  
 11 censes, registrations, and other documents issued or  
 12 reissued after the date that is 1 year after the date  
 13 of enactment of this Act.

14 (c) PROHIBITION OF INMATE ACCESS TO SOCIAL SE-  
 15 CURITY ACCOUNT NUMBERS.—

16 (1) IN GENERAL.—Section 205(c)(2)(C) of the  
 17 Social Security Act (42 U.S.C. 405(c)(2)(C)) (as  
 18 amended by subsection (b)) is amended by adding at  
 19 the end the following new clause:

20 “(xi) No Federal, State, or local agency may employ,  
 21 or enter into a contract for the use or employment of, pris-  
 22 oners in any capacity that would allow such prisoners ac-  
 23 cess to the social security account numbers of other indi-  
 24 viduals. For purposes of this clause, the term ‘prisoner’  
 25 means an individual confined in a jail, prison, or other

1 penal institution or correctional facility pursuant to such  
 2 individual’s conviction of a criminal offense.”.

3 (2) EFFECTIVE DATE.—The amendment made  
 4 by this subsection shall apply with respect to em-  
 5 ployment of prisoners, or entry into contract with  
 6 prisoners, after the date that is 1 year after the date  
 7 of enactment of this Act.

8 **SEC. 7. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL**  
 9 **SECURITY NUMBER FOR CONSUMER TRANS-**  
 10 **ACTIONS.**

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

14 **“SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SO-**  
 15 **CIAL SECURITY NUMBER FOR CONSUMER**  
 16 **TRANSACTIONS.**

17 “(a) IN GENERAL.—A commercial entity may not re-  
 18 quire an individual to provide the individual’s social secu-  
 19 rity number when purchasing a commercial good or service  
 20 or deny an individual the good or service for refusing to  
 21 provide that number except—

22 “(1) for any purpose relating to—

23 “(A) obtaining a consumer report for any  
 24 purpose permitted under the Fair Credit Re-  
 25 porting Act;

1           “(B) a background check of the individual  
 2           conducted by a landlord, lessor, employer, vol-  
 3           untary service agency, or other entity as deter-  
 4           mined by the Attorney General;

5           “(C) law enforcement; or

6           “(D) a Federal or State law requirement;  
 7           or

8           “(2) if the social security number is necessary  
 9           to verify identity and to prevent fraud with respect  
 10          to the specific transaction requested by the con-  
 11          sumer and no other form of identification can  
 12          produce comparable information.

13          “(b) OTHER FORMS OF IDENTIFICATION.—Nothing  
 14          in this section shall be construed to prohibit a commercial  
 15          entity from—

16               “(1) requiring an individual to provide 2 forms  
 17               of identification that do not contain the social secu-  
 18               rity number of the individual; or

19               “(2) denying an individual a good or service for  
 20               refusing to provide 2 forms of identification that do  
 21               not contain such number.

22          “(c) APPLICATION OF CIVIL MONEY PENALTIES.—  
 23          A violation of this section shall be deemed to be a violation  
 24          of section 1129(a)(3)(F).

1       “(d) APPLICATION OF CRIMINAL PENALTIES.—A vio-  
 2       lation of this section shall be deemed to be a violation of  
 3       section 208(a)(8).”.

4       (b) EFFECTIVE DATE.—The amendment made by  
 5       subsection (a) shall apply to requests to provide a social  
 6       security number made on or after the date of enactment  
 7       of this Act.

8       **SEC. 8. EXTENSION OF CIVIL MONETARY PENALTIES FOR**  
 9                               **MISUSE OF A SOCIAL SECURITY NUMBER.**

10       (a) TREATMENT OF WITHHOLDING OF MATERIAL  
 11       FACTS.—

12               (1) CIVIL PENALTIES.—The first sentence of  
 13       section 1129(a)(1) of the Social Security Act (42  
 14       U.S.C. 1320a–8(a)(1)) is amended—

15                       (A) by striking “who” and inserting  
 16                       “who—”;

17                       (B) by striking “makes” and all that fol-  
 18       lows through “shall be subject to” and inserting  
 19       the following:

20               “(A) makes, or causes to be made, a statement  
 21       or representation of a material fact, for use in deter-  
 22       mining any initial or continuing right to or the  
 23       amount of monthly insurance benefits under title II  
 24       or benefits or payments under title VIII or XVI,

1       that the person knows or should know is false or  
2       misleading;

3           “(B) makes such a statement or representation  
4       for such use with knowing disregard for the truth;  
5       or

6           “(C) omits from a statement or representation  
7       for such use, or otherwise withholds disclosure of, a  
8       fact which the individual knows or should know is  
9       material to the determination of any initial or con-  
10      tinuing right to or the amount of monthly insurance  
11      benefits under title II or benefits or payments under  
12      title VIII or XVI and the individual knows, or  
13      should know, that the statement or representation  
14      with such omission is false or misleading or that the  
15      withholding of such disclosure is misleading,

16 shall be subject to”;

17           (C) by inserting “or each receipt of such  
18      benefits while withholding disclosure of such  
19      fact” after “each such statement or representa-  
20      tion”;

21           (D) by inserting “or because of such with-  
22      holding of disclosure of a material fact” after  
23      “because of such statement or representation”;  
24      and

1 (E) by inserting “or such a withholding of  
 2 disclosure” after “such a statement or rep-  
 3 resentation”.

4 (2) ADMINISTRATIVE PROCEDURE FOR IMPOS-  
 5 ING PENALTIES.—The first sentence of section  
 6 1129A(a) of the Social Security Act (42 U.S.C.  
 7 1320a–8a(a)) is amended—

8 (A) by striking “who” and inserting  
 9 “who—”; and

10 (B) by striking “makes” and all that fol-  
 11 lows through “shall be subject to” and inserting  
 12 the following new paragraphs:

13 “(1) makes, or causes to be made, a statement  
 14 or representation of a material fact, for use in deter-  
 15 mining any initial or continuing right to or the  
 16 amount of monthly insurance benefits under title II  
 17 or benefits or payments under title VIII or XVI,  
 18 that the person knows or should know is false or  
 19 misleading;

20 “(2) makes such a statement or representation  
 21 for such use with knowing disregard for the truth;  
 22 or

23 “(3) omits from a statement or representation  
 24 for such use, or otherwise withholds disclosure of, a  
 25 fact which the individual knows or should know is

1 material to the determination of any initial or con-  
 2 tinuing right to or the amount of monthly insurance  
 3 benefits under title II or benefits or payments under  
 4 title VIII or XVI and the individual knows, or  
 5 should know, that the statement or representation  
 6 with such omission is false or misleading or that the  
 7 withholding of such disclosure is misleading,  
 8 shall be subject to”.

9 (b) APPLICATION OF CIVIL MONEY PENALTIES TO  
 10 ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a)  
 11 of the Social Security Act (42 U.S.C. 1320a–8(a)), as  
 12 amended by subsection (a)(1), is amended—

13 (1) by redesignating paragraph (2) as para-  
 14 graph (4);

15 (2) by redesignating the last sentence of para-  
 16 graph (1) as paragraph (2) and inserting such para-  
 17 graph after paragraph (1); and

18 (3) by inserting after paragraph (2) (as so re-  
 19 designated) the following new paragraph:

20 “(3) Any person (including an organization, agency,  
 21 or other entity) who—

22 “(A) uses a social security account number that  
 23 such person knows or should know has been as-  
 24 signed by the Commissioner of Social Security (in an  
 25 exercise of authority under section 205(c)(2) to es-



1       tablish and maintain records) on the basis of false  
2       information furnished to the Commissioner by any  
3       person;

4           “(B) falsely represents a number to be the so-  
5       cial security account number assigned by the Com-  
6       missioner of Social Security to any individual, when  
7       such person knows or should know that such number  
8       is not the social security account number assigned  
9       by the Commissioner to such individual;

10          “(C) knowingly alters a social security card  
11       issued by the Commissioner of Social Security, or  
12       possesses such a card with intent to alter it;

13          “(D) knowingly displays, sells, or purchases a  
14       card that is, or purports to be, a card issued by the  
15       Commissioner of Social Security, or possesses such  
16       a card with intent to display, purchase, or sell it;

17          “(E) counterfeits a social security card, or pos-  
18       sesses a counterfeit social security card with intent  
19       to display, sell, or purchase it;

20          “(F) discloses, uses, compels the disclosure of,  
21       or knowingly displays, sells, or purchases the social  
22       security account number of any person in violation  
23       of the laws of the United States;

24          “(G) with intent to deceive the Commissioner of  
25       Social Security as to such person’s true identity (or

1 the true identity of any other person) furnishes or  
 2 causes to be furnished false information to the Com-  
 3 missioner with respect to any information required  
 4 by the Commissioner in connection with the estab-  
 5 lishment and maintenance of the records provided  
 6 for in section 205(c)(2);

7 “(H) offers, for a fee, to acquire for any indi-  
 8 vidual, or to assist in acquiring for any individual,  
 9 an additional social security account number or a  
 10 number which purports to be a social security ac-  
 11 count number; or

12 “(I) being an officer or employee of a Federal,  
 13 State, or local agency in possession of any individ-  
 14 ual’s social security account number, willfully acts or  
 15 fails to act so as to cause a violation by such agency  
 16 of clause (vi)(II) or (x) of section 205(c)(2)(C),

17 shall be subject to, in addition to any other penalties that  
 18 may be prescribed by law, a civil money penalty of not  
 19 more than \$5,000 for each violation. Such person shall  
 20 also be subject to an assessment, in lieu of damages sus-  
 21 tained by the United States resulting from such violation,  
 22 of not more than twice the amount of any benefits or pay-  
 23 ments paid as a result of such violation.”.

24 (c) CLARIFICATION OF TREATMENT OF RECOVERED  
 25 AMOUNTS.—Section 1129(e)(2)(B) of the Social Security

1 Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking  
 2 “In the case of amounts recovered arising out of a deter-  
 3 mination relating to title VIII or XVI,” and inserting “In  
 4 the case of any other amounts recovered under this sec-  
 5 tion,”.

6 (d) CONFORMING AMENDMENTS.—

7 (1) Section 1129(b)(3)(A) of the Social Secu-  
 8 rity Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended  
 9 by striking “charging fraud or false statements”.

10 (2) Section 1129(c)(1) of the Social Security  
 11 Act (42 U.S.C. 1320a–8(c)(1)) is amended by strik-  
 12 ing “and representations” and inserting “, represen-  
 13 tations, or actions”.

14 (3) Section 1129(e)(1)(A) of the Social Security  
 15 Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by  
 16 striking “statement or representation referred to in  
 17 subsection (a) was made” and inserting “violation  
 18 occurred”.

19 (e) EFFECTIVE DATES.—

20 (1) IN GENERAL.—Except as provided in para-  
 21 graph (2), the amendments made by this section  
 22 shall apply with respect to violations of sections  
 23 1129 and 1129A of the Social Security Act (42  
 24 U.S.C. 1320–8 and 1320a–8a), as amended by this

1       section, committed after the date of enactment of  
2       this Act.

3               (2) VIOLATIONS BY GOVERNMENT AGENTS IN  
4       POSSESSION OF SOCIAL SECURITY NUMBERS.—Sec-  
5       tion 1129(a)(3)(I) of the Social Security Act (42  
6       U.S.C. 1320a–8(a)(3)(I)), as added by subsection  
7       (b), shall apply with respect to violations of that sec-  
8       tion occurring on or after the effective date under  
9       section 3(c).

○