

111TH CONGRESS
2D SESSION

S. 3427

To institute an identification requirement for the purchase of pre-paid mobile devices.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2010

Mr. SCHUMER (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To institute an identification requirement for the purchase of pre-paid mobile devices.

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 “Pre-Paid Mobile De-
5 vice Identification Act”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act—

8 (1) the term “authorized reseller” means any
9 person authorized by a—

1 (A) manufacturer to sell the manufactur-
2 er's mobile devices or SIM cards; or

3 (B) wireless carrier to sell pre-paid mobile
4 devices or SIM cards to which the wireless car-
5 rier will provide wireless cellular service;

6 (2) the term "pre-paid mobile device" means
7 any cellular phone or similar wireless communication
8 device for which the mobile device user purchases a
9 set allotment of wireless communication service;

10 (3) the term "SIM card" means a subscriber
11 identity module or functionally equivalent data stor-
12 age device; and

13 (4) the term "wireless carrier" has the same
14 meaning as in section 6(4) of the Wireless Commu-
15 nications and Public Safety Act of 1999 (47 U.S.C.
16 615b(4)).

17 **SEC. 3. IDENTIFICATION REQUIREMENT.**

18 Prior to the completion of any sale of a pre-paid mo-
19 bile device or SIM card to a purchaser, an authorized re-
20 seller shall require the purchaser to provide the following
21 information:

22 (1) The full name of the purchaser.

23 (2) The complete home address of the pur-
24 chaser.

25 (3) The date of birth of the purchaser.

1 **SEC. 4. IDENTIFICATION VERIFICATION.**

2 (a) IN PERSON SALES.—An authorized reseller mak-
3 ing a sale to a purchaser in person shall verify the pur-
4 chaser information provided under section 3 by requiring
5 the purchaser to display—

6 (1) a photographic identification card issued by
7 a Federal or State government, or a document con-
8 sidered acceptable for purposes of subparagraphs
9 (B), (C), or (D) of section 274A(b)(1) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1324a(b)(1));
11 or

12 (2) any 2 of the following documents:

13 (A) A Form W-2 Wage and Tax State-
14 ment received from the Internal Revenue Serv-
15 ice, provided that such form has been received
16 from the Internal Revenue Service within the
17 prior 18 months.

18 (B) A Form 1099 Social Security Benefit
19 Statement received from the Social Security
20 Administration, provided that such form has
21 been received from the Social Security Adminis-
22 tration within the prior 18 months.

23 (C) A Form 1099 received from any other
24 agency of the Federal Government other than
25 the Social Security Administration, including
26 the Internal Revenue Service, provided that

1 such form has been received within the prior 18
2 months.

3 (D) Any document containing personal
4 identifying information that the Attorney Gen-
5 eral finds, by regulation, to be acceptable for
6 purposes of this section.

7 (b) OTHER SALES.—An authorized reseller making
8 a sale to a purchaser not in person shall verify the pur-
9 chaser information provided under section 3 by requiring
10 the purchaser to submit the following information:

11 (1) Valid credit or debit card account informa-
12 tion.

13 (2) Social Security number.

14 (3) Driver's license number.

15 (4) Any other personal identifying information
16 that the Attorney General finds, by regulation, to be
17 necessary for purposes of this section.

18 **SEC. 5. RECORD MAKING REQUIREMENT.**

19 Upon completion of a sale of a pre-paid mobile device
20 or SIM card, an authorized reseller shall make a record
21 of the sale that includes the following information:

22 (1) The information obtained from the pur-
23 chaser under section 3, and, if applicable, the infor-
24 mation submitted by the purchaser under subsection
25 (b) of section 4.

1 (2) The date of sale.

2 (3) The manufacturer of the pre-paid mobile
3 device or SIM card.

4 (4) The wireless carrier that will provide wire-
5 less communication service to the pre-paid mobile
6 device or SIM card.

7 (5) Any assigned telephone number or other
8 subscriber or account identifier known at the time of
9 purchase.

10 (6) Any of the following, if applicable to the
11 pre-paid mobile device or SIM card:

12 (A) International mobile equipment identi-
13 fier number.

14 (B) Electronic serial number.

15 (C) Mobile equipment identifier.

16 (D) International mobile subscriber identi-
17 fier.

18 (E) Machine address code.

19 **SEC. 6. RECORD TRANSMISSION REQUIREMENT.**

20 (a) IN GENERAL.—Not later than 30 days after the
21 sale of a pre-paid mobile device or SIM card, an author-
22 ized reseller shall transmit the record of the sale made
23 in accordance with section 5 to the wireless carrier that
24 will provide wireless communication service to the pre-paid
25 mobile device or SIM card.

1 (b) PERMISSIBLE MEANS OF TRANSMISSION.—In
2 complying with the requirements of subsection (a), an au-
3 thorized reseller may transmit the sale record to the wire-
4 less carrier by means of secure electronic transmission.

5 **SEC. 7. RECORDKEEPING REQUIREMENT.**

6 After an authorized reseller has transmitted the sale
7 record to the wireless carrier in accordance with section
8 6, a wireless carrier shall—

9 (1) provide a transmission confirmation receipt
10 to the authorized reseller, after the receipt of which
11 the authorized reseller shall dispose promptly of any
12 retained copy of the record; and

13 (2) retain the transmitted sale record in accord-
14 ance with the privacy protections of section 222 of
15 the Communications Act of 1934 (47 U.S.C. 222)
16 for a period of 18 months or until the wireless car-
17 rier stops or otherwise discontinues providing service
18 to the pre-paid mobile device or SIM card to which
19 the sale record relates.

20 **SEC. 8. PENALTIES.**

21 (a) FOR FALSE OR MISLEADING STATEMENTS.—A
22 purchaser who provides false or misleading information
23 when providing the identifying information and documents
24 required under sections 3 and 4 shall be subject to crimi-

1 nal penalties under section 1001 of title 18, United States
2 Code.

3 (b) FAILURE TO COMPLY.—

4 (1) IN GENERAL.—An authorized reseller or
5 wireless carrier who fails to comply with the require-
6 ments of this Act shall be subject to a civil fine of
7 \$50 per offense.

8 (2) SEPARATE OFFENSE.—Each separate sale
9 of a pre-paid mobile device or SIM card for which
10 purchaser identification is not requested or verified
11 in accordance with sections 3 and 4, or for which the
12 required record is not made or maintained in accord-
13 ance with sections 5 or 7, shall constitute a separate
14 offense.

15 (3) RULE OF CONSTRUCTION.—For purposes of
16 this section—

17 (A) a wireless carrier is not responsible for
18 an offense of an authorized reseller; and

19 (B) an authorized reseller is not respon-
20 sible for an offense of a wireless carrier.

21 **SEC. 9. RELATED OFFENSES.**

22 (a) SALE BY NONAUTHORIZED RESELLERS.—

23 (1) IN GENERAL.—It shall be unlawful for any
24 person who is not an authorized reseller to sell pre-
25 paid mobile devices or SIM cards.

1 (2) PENALTY.—Any person that violates the
2 prohibition set forth under paragraph (1) shall be
3 fined not more than \$500, imprisoned for not less
4 than 1 year, or both.

5 (3) NOTICE.—The Attorney General shall es-
6 tablish regulations requiring manufacturers and au-
7 thorized resellers to notify purchasers of mobile de-
8 vices and SIM cards of the offense and penalty es-
9 tablished by this section.

10 (b) COMMISSION OF OTHER CRIMES.—If a person
11 uses a pre-paid mobile device or SIM card obtained in vio-
12 lation of this Act to commit a Federal criminal offense,
13 the minimum term of imprisonment for such offense that
14 is required under Federal statute shall be increased by 1
15 year.

16 **SEC. 10. PREEMPTION DISCLAIMER.**

17 Nothing in this Act is intended to preempt or other-
18 wise prevent or prohibit any State of the power to enact
19 additional requirements with respect to the distribution
20 and sale of mobile devices or SIM cards.

○