

112TH CONGRESS
2D SESSION

H. R. 5915

To amend the Fair Labor Standards Act to exempt marketing research participants and mystery shoppers from certain provisions of that Act.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2012

Mr. KELLY introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act to exempt marketing research participants and mystery shoppers from certain provisions of that Act.

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 “Research Fairness Act
5 of 2012”.

6 **SEC. 2. EXEMPTION FOR MARKETING RESEARCH PARTICI-**
7 **PANTS AND MYSTERY SHOPPERS.**

8 Section 13(a) of the Fair Labor Standards Act of
9 1938 (29 U.S.C. 213(a)) is amended by adding at the end
10 the following new paragraph:

1 “(18)(A) any individual engaged as a partici-
2 pant in bona fide marketing research involved in the
3 collection and analysis of data regarding opinions,
4 needs, awareness, knowledge, views, experiences, or
5 behaviors of a population, through the development
6 and administration of surveys, interviews, focus
7 groups, polls, observation, or other research meth-
8 odologies, in which no sales, promotional, or mar-
9 keting efforts are involved and through which there
10 is no attempt to influence a participant’s attitudes
11 or behavior;

12 “(B) any individual engaged to measure or
13 evaluate a customer’s experience or some aspect
14 thereof either at a defined location, or while using
15 or purporting to use a specified product or service,
16 provided that (i) the service opportunities are of-
17 fered to the individual on a project-by-project basis,
18 which the individual can accept or decline, and (ii)
19 the remuneration for the services the individual per-
20 forms is determined on a basis other than the
21 amount of time worked.”.

○