To require the Secretary of Labor to maintain a publicly available list of all employers that relocate a call center overseas, to make such companies ineligible for Federal grants or guaranteed loans, and to require disclosure of the physical location of business agents engaging in customer service communications, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 18, 2012

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

A BILL

To require the Secretary of Labor to maintain a publicly available list of all employers that relocate a call center overseas, to make such companies ineligible for Federal grants or guaranteed loans, and to require disclosure of the physical location of business agents engaging in customer service communications, and for other purposes.

Be it enacted by the Senate and House of Representa-

1 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “The United States Call Center Worker and Consumer Protection Act of 2012”.

SEC. 2. DEFINITIONS.

In this Act:

(1) AGENCY.—The term “agency” means a Federal or State executive agency or a military department.

(2) BUSINESS ENTITY.—The term “business entity” means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, or venture established to make a profit, in whole or in part, by purposefully availing itself of the privilege of conducting commerce in the United States.

(3) CALL CENTER.—The term “call center” means a facility or other operation whereby employees receive incoming telephone calls, emails, or other electronic communication for the purpose of providing customer assistance or other service.

(4) CONSUMER.—The term “consumer” means any individual within the territorial jurisdiction of the United States who purchases, transacts, or contracts for the purchase or transaction of any goods, merchandise, or services, not for resale in the ordinary course of the individual’s trade or business, but
for the individual’s use or that of a member of the
individual’s household.

(5) **CUSTOMER SERVICE COMMUNICATION.**—
The term “customer service communication” means
any telecommunication or wire communication be-
tween a consumer and a business entity in further-
ance of commerce.

(6) **EMPLOYER.**—The term “employer” means
any business enterprise that employs in a call cen-
ter—

(A) 50 or more employees, excluding part-
time employees; or

(B) 50 or more employees who in the ag-
gregate work at least 1,500 hours per week (ex-
clusive of hours of overtime).

(7) **PART-TIME EMPLOYEE.**—the term “part-
time employee” means an employee who is employed
for an average of fewer than 20 hours per week or
who has been employed for fewer than 6 of the 12
months preceding the date on which notice is re-
quired.

(8) **RELOCATING AND RELOCATION.**—The
terms “relocating” and “relocation” refer to the clo-
sure of a call center, or the cessation of operations
of a call center, or 1 or more facilities or operating
units within a call center comprising at least 30 per-
cent of the call center’s, or operating unit’s, total
volume when measured against the previous 12-
month average call volume of operations or substan-
tially similar operations to a location outside of the
United States.

(9) SECRETARY.—The term “Secretary” means
the Secretary of Labor.

(10) TELECOMMUNICATION.—The term “tele-
communication” means the transmission, between or
among points specified by the communicator, of in-
formation of the communicator’s choosing, without
change in the form or content of the information as
sent and received.

(11) WIRE COMMUNICATION AND COMMUNICA-
TION BY WIRE.—The term “wire communication” or
“communication by wire” means the transmission of
writing, signs, signals, pictures, and sounds of all
kinds by aid of wire, cable, or other like connection
between the points of origin and reception of such
transmission, including all instrumentalities, facili-
ties, apparatus, and services (among other things,
the receipt, forwarding, and delivery of communica-
tions) incidental to such transmission.
SEC. 3. LIST OF CALL CENTERS RELOCATING OVERSEAS
AND INELIGIBILITY FOR GRANTS OR GUARANTEED LOANS.

(a) List.—

(1) Notice requirement.—

(A) In general.—Not fewer than 120 days before relocating a call center to a location outside of the United States, an employer shall notify the Secretary of such relocation.

(B) Penalty.—A person who violates subparagraph (A) shall be subject to a civil penalty not to exceed $10,000 for each day of violation.

(2) Establishment and maintenance of list.—

(A) In general.—The Secretary shall establish, maintain, and make available to the public a list of all employers who relocate a call center as described in paragraph (1)(A).

(B) Term.—Each employer included in the list required by subparagraph (A) shall remain on the list for a period not to exceed 3 years after each instance of relocating a call center.

(C) Removal.—The Secretary may remove an employer from the list required by subparagraph (A) if the Secretary determines that
the employer has relocated a call center from a
location outside of the United States to a loca-
tion in the United States.

(b) **Ineligibility for Grants or Guaranteed Loans.**—

(1) **Ineligibility.**—Except as provided in sub-
section (b) and notwithstanding any other provision
of law, an employer who appears on the list required
by subsection (a)(2)(A) shall be ineligible for any di-
rect or indirect Federal grants or Federal guaran-
teed loans for 5 years after the date such employer
was added to the list.

(2) **Exceptions.**—The Secretary, in consulta-
tion with the appropriate agency providing a loan or
grant, may waive the eligibility restriction provided
under subsection (a) if the employer applying for
such loan or grant demonstrates that a lack of such
loan or grant would—

(A) threaten national security;

(B) result in substantial job loss in the
United States; or

(C) harm the environment.

(e) **Preference in Federal Contracting for Not Relocating a Call Center Overseas.**—The
head of an agency, when awarding a civilian or defense-
related contract, shall give preference to a United States employer that does not appear on the list required by subsection (a)(2)(A).

(d) EFFECTIVE DATE.—This section shall take effect on the date that is 1 year after the date of the enactment of this Act.

SEC. 4. RULE OF CONSTRUCTION RELATED TO FEDERAL BENEFITS FOR WORKERS.

No provision of section 3 shall be construed to permit withholding or denial of payments, compensation, or benefits under any provision of Federal law (including Federal unemployment compensation, disability payments, or worker retraining or readjustment funds) to workers employed by employers that relocate operations outside the United States.

SEC. 5. REQUIRED DISCLOSURE BY BUSINESS ENTITIES ENGAGED IN CUSTOMER SERVICE COMMUNICATIONS OF PHYSICAL LOCATION.

(a) In General.—Except as provided in subsection (b), a business entity that either initiates or receives a customer service communication shall require that each of its employees or agents participating in the communication disclose their physical location at the beginning of each customer service communication so initiated or received.

(b) Exceptions.—
(1) Business entities located in the United States.—The requirements of subsection (a) shall not apply to a customer service communication involving a business entity if all of the employees or agents of the business entity participating in such communication are physically located in the United States.

(2) Communication initiated by consumer knowingly to foreign entity or address.—The requirements of subsection (a) shall not apply to an employee or agent of a business entity participating in a customer service communication with a consumer if—

(A) the customer service communication was initiated by the consumer;

(B) the employee or agent is physically located outside the United States; and

(C) the consumer knows or reasonably should know that the employee or agent is physically located outside the United States.

(3) Emergency services.—The requirements of subsection (a) shall not apply to a customer service communication relating to the provision of emergency services (as defined by the Federal Trade Commission).
(4) Business entities and customer service communications excluded by Federal Trade Commission.—The Federal Trade Commission may exclude certain classes or types of business entities or customer service communications from the requirements of subsection (a) if the Commission finds exceptionally compelling circumstances that justify such exclusion.

(e) Transfer to U.S.-Based Customer Service Center.—A business entity that is subject to the requirements of subsection (a) shall, at the request of a customer, transfer the customer to a customer service agent who is physically located in the United States.

(d) Certification Requirement.—Each year, each business entity that participates in a customer service communication shall certify to the Federal Trade Commission that it has complied or failed to comply with the requirements of subsections (a) and (e).

(e) Regulations.—Not later than 1 year after the date of the enactment of this Act, the Federal Trade Commission shall promulgate such regulations as may be necessary to carry out the provisions of this section.

(f) Effective Date.—The requirements of subsection (a) shall apply with respect to customer service
communications occurring on or after the date that is 1 year after the date of the enactment of this Act.

SEC. 6. ENFORCEMENT.

(a) In General.—Any failure to comply with the provisions of section 5 shall be treated as a violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

(b) Powers of Federal Trade Commission.—

(1) In General.—The Federal Trade Commission shall prevent any person from violating section 5 and any regulation promulgated thereunder, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(2) Penalties.—Any person who violates regulations promulgated under section 5 shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the
Federal Trade Commission Act were incorporated into and made part of this Act.

(c) Authority preserved.—Nothing in this section or section 5 shall be construed to limit the authority of the Federal Trade Commission under any other provision of law.