A BILL

To require purchasers of pre-paid mobile devices or SIM cards to provide identification, and for other purposes.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Closing the Pre-Paid Mobile Device Security Gap Act of 2016”.

SEC. 2. IDENTIFICATION REQUIREMENT.

Prior to the completion of any sale of a pre-paid mobile device or SIM card to a purchaser, an authorized re-
seller shall require the purchaser to provide the following information:

(1) The full name of the purchaser.
(2) The complete home address of the purchaser.
(3) The date of birth of the purchaser.

SEC. 3. IDENTIFICATION VERIFICATION.

(a) IN-PERSON SALES.—An authorized reseller making a sale to a purchaser in person shall verify the purchaser information provided under section 2 by requiring the purchaser to display either of the following:

(1) A photographic identification card issued by the Federal Government or a State government, or a document considered acceptable for purposes of subparagraph (B), (C), or (D) of section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)).

(2) Any 2 of the following:

(A) A Form W–2 Wage and Tax Statement received from the Internal Revenue Service, provided that such form has been received from the Internal Revenue Service within the prior 18 months.

(B) A Form 1099 Social Security Benefit Statement received from the Social Security
Administration, provided that such form has been received from the Social Security Administration within the prior 18 months.

(C) A Form 1099 received from any other agency of the Federal Government other than the Social Security Administration, including the Internal Revenue Service, provided that such form has been received within the prior 18 months.

(D) Any document containing personal identifying information that the Attorney General finds, by regulation, to be acceptable for purposes of this section.

(b) Other Sales.—An authorized reseller making a sale to a purchaser not in person shall verify the purchaser information provided under section 2 by requiring the purchaser to submit the following information:

(1) Valid credit or debit card account information.

(2) Social Security number.

(3) Driver’s license number.

(4) Any other personal identifying information that the Attorney General finds, by regulation, to be necessary for purposes of this section.
SEC. 4. RECORD MAKING REQUIREMENT.

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

(1) The information obtained from the purchaser under section 2, and, if applicable, the information submitted by the purchaser under subsection (b) of section 3.

(2) The date of sale.

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

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

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

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

   (A) International mobile equipment identifier number.

   (B) Electronic serial number.

   (C) Mobile equipment identifier.

   (D) International mobile subscriber identifier.

   (E) Machine address code.
SEC. 5. RECORD TRANSMISSION REQUIREMENT.

(a) IN GENERAL.—Not later than 30 days after the sale of a pre-paid mobile device or SIM card, an authorized reseller shall transmit the record of the sale made in accordance with section 4 to the wireless carrier that will provide wireless communication service to the pre-paid mobile device or SIM card.

(b) PERMISSIBLE MEANS OF TRANSMISSION.—In complying with the requirements of subsection (a), an authorized reseller may transmit the sale record to the wireless carrier by means of secure electronic transmission.

SEC. 6. RECORDKEEPING REQUIREMENT.

After an authorized reseller has transmitted a sale record to a wireless carrier in accordance with section 5, the wireless carrier shall—

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

(2) retain the transmitted sale record in accordance with the privacy protections of section 222 of the Communications Act of 1934 (47 U.S.C. 222) for a period of 18 months or until the wireless carrier stops or otherwise discontinues providing service to the pre-paid mobile device or SIM card to which the sale record relates.
SEC. 7. PENALTIES.

(a) False or Misleading Statements.—A purchaser who knowingly provides false or misleading information when providing the identifying information and documents required under sections 2 and 3 shall be fined under title 18, United States Code, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331 of such title), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591 of such title, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Failure To Comply.—

(1) In General.—The Attorney General shall assess, against an authorized reseller or wireless carrier who commits an offense under this Act, a civil penalty of $50 for each such offense.

(2) Separate offense.—

(A) By authorized reseller.—The failure of an authorized reseller, with respect to each separate sale of a pre-paid mobile device or SIM card, to request purchaser identification under section 2, to verify identification under section 3, to make a record under section 4,
and to transmit a record under section 5, shall constitute a separate offense.

(B) BY WIRELESS CARRIER.—The failure of a wireless carrier, with respect to each separate sale of a pre-paid mobile device or SIM card for which the carrier receives the sale record transmitted under section 5, to provide a transmission confirmation receipt under section 6(1), and to retain the sale record under section 6(2), shall constitute a separate offense.

(3) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

(A) hold a wireless carrier liable for an offense under this Act committed by an authorized reseller; and

(B) hold an authorized reseller liable for an offense under this Act committed by a wireless carrier.

SEC. 8. RELATED OFFENSES.

(a) SALE BY UNAUTHORIZED RESSELLERS.—

(1) IN GENERAL.—It shall be unlawful for any person who is not an authorized reseller to sell a pre-paid mobile device or SIM card.

(2) PENALTY.—Whoever knowingly violates paragraph (1) shall be imprisoned for not more than
2 years or fined under title 18, United States Code, or both.

(3) NOTICE.—The Attorney General shall make rules requiring a manufacturer or authorized reseller to notify a purchaser of a mobile device or SIM card of the offense and penalty established by this section.

(b) COMMISSION OF OTHER CRIMES.—If a person knowingly uses a pre-paid mobile device or SIM card obtained by providing false or misleading information in violation of section 2 or 3 to commit a Federal criminal offense, the minimum term of imprisonment for such offense that is required under Federal statute (if any such minimum term is so required) shall be increased by 1 year.

SEC. 9. PRESERVATION OF STATE LAW.

Nothing in this Act is intended to preempt additional State requirements with respect to the distribution and sale of mobile devices or SIM cards, or to otherwise prevent or prohibit any State from enacting any such requirements.

SEC. 10. DEFINITIONS.

In this Act:

(1) AUTHORIZED RESELLER.—The term “authorized reseller” means any person authorized by—
(A) a manufacturer to sell the manufacturer’s mobile devices or SIM cards; or

(B) a wireless carrier to sell pre-paid mobile devices or SIM cards to which the wireless carrier will provide wireless communication service.

(2) PRE-PAID MOBILE DEVICE.—The term “pre-paid mobile device” means any cellular phone or similar wireless communication device for which the mobile device user purchases a set allotment of wireless communication service.

(3) SIM CARD.—The term “SIM card” means a subscriber identity module or functionally equivalent data storage device.

(4) WIRELESS CARRIER.—The term “wireless carrier” means a provider of wireless communication service.

(5) WIRELESS COMMUNICATION SERVICE.—The term “wireless communication service” means commercial mobile service (as defined in section 332 of the Communications Act of 1934 (47 U.S.C. 332)) or commercial mobile data service (as defined in section 6001 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1401)).