

105TH CONGRESS
1ST SESSION

S. 868

To amend the Social Security Act to prohibit persons from charging for services or products that the Social Security Administration and Department of Health and Human Services provide without charge.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 1997

Mr. HARKIN (for himself, Mr. HUTCHINSON, Mr. REID, Mr. BRYAN, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act to prohibit persons from charging for services or products that the Social Security Administration and Department of Health and Human Services provide without charge.

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 “Social Security
5 Consumer Protection Act”.

1 **SEC. 2. PROHIBITION OF CHARGING FOR SERVICES OR**
 2 **PRODUCTS THAT ARE PROVIDED WITHOUT**
 3 **CHARGE BY THE SOCIAL SECURITY ADMINIS-**
 4 **TRATION OR THE DEPARTMENT OF HEALTH**
 5 **AND HUMAN SERVICES.**

6 Part A of title XI of the Social Security Act (42
 7 U.S.C. 1301 et seq.) is amended by inserting after section
 8 1140 the following:

9 **“SEC. 1140A. PROHIBITION OF CHARGING FOR SERVICES**
 10 **OR PRODUCTS THAT ARE PROVIDED WITH-**
 11 **OUT CHARGE BY THE SOCIAL SECURITY AD-**
 12 **MINISTRATION OR THE DEPARTMENT OF**
 13 **HEALTH AND HUMAN SERVICES.**

14 “(a) IN GENERAL.—Except as provided in subsection
 15 (b), a person shall not offer, for a fee, to assist an individ-
 16 ual to obtain a product or service that the person knows
 17 or should know is provided for no fee by the Social Secu-
 18 rity Administration or the Department of Health and
 19 Human Services.

20 “(b) EXCEPTION.—A person may offer assistance for
 21 a fee if, at the time the offer is made, the person provides,
 22 to the individual receiving the assistance, a written notice
 23 that clearly and prominently contains the following phrase:
 24 ‘IMPORTANT PUBLIC DISCLOSURE: The product or
 25 service described here and assistance to obtain the product
 26 or service is available free of charge from the Social Secu-

1 rity Administration or the Department of Health and
 2 Human Services.’.

3 “(c) IMPOSITION OF PENALTY.—

4 “(1) IN GENERAL.—The Commissioner or the
 5 Secretary (as applicable), pursuant to regulations,
 6 may impose a civil money penalty against a person
 7 for a violation of subsection (a) not to exceed—

8 “(A) except as provided in subparagraph
 9 (B), \$5,000; or

10 “(B) in the case of a violation consisting of
 11 a broadcast or telecast, \$25,000.

12 “(2) VIOLATIONS WITH RESPECT TO INDIVID-
 13 UAL ITEMS.—In the case of an offer of services con-
 14 sisting of pieces of mail, each piece of mail in viola-
 15 tion of this section shall be a separate violation.

16 “(d) RECOVERY OF PENALTY.—

17 “(1) PROCEDURE.—The provisions of section
 18 1128A (other than subsections (a), (b), (f), (h), (i)
 19 (other than paragraph (7)), and (m) and the first
 20 sentence of subsection (c)) shall apply to civil money
 21 penalties imposed under subsection (c) in the same
 22 manner as the provisions apply to a penalty or pro-
 23 ceeding under section 1128A(a).

24 “(2) COMPROMISE.—Penalties imposed against
 25 a person under subsection (c) may be compromised

1 by the Commissioner or the Secretary (as applica-
2 ble).

3 “(3) VENUE.—Penalties imposed against a per-
4 son under subsection (c) may be recovered in a civil
5 action in the name of the United States brought in
6 the district court of the United States for the dis-
7 trict in which the violation occurred or where the
8 person resides, has its principal office, or may be
9 found as determined by the Commissioner or the
10 Secretary (as applicable).

11 “(4) DEDUCTION OF PENALTY FROM BENE-
12 FITS.—The amount of a penalty imposed under this
13 section may be deducted from any sum then or later
14 owing by the United States to the person against
15 whom the penalty has been imposed.

16 “(e) USE OF PENALTY AMOUNTS RECOVERED.—

17 “(1) COSTS OF THE OFFICE OF THE INSPECTOR
18 GENERAL.—Amounts recovered under this section
19 shall be made available to the Commissioner and the
20 Secretary (as applicable) to reimburse costs of the
21 applicable Office of the Inspector General related to
22 the enforcement of this section.

23 “(2) EXCESS AMOUNTS.—Amounts recovered
24 under this section, in excess of the amounts needed
25 to reimburse the Commissioner and the Secretary

1 under paragraph (1), shall be deposited as mis-
2 cellaneous receipts of the Treasury of the United
3 States.

4 “(f) ENFORCEMENT.—The provisions of this section
5 may be enforced through the Office of the Inspector Gen-
6 eral of the Social Security Administration or the Office
7 of the Inspector General of the Department of Health and
8 Human Services (as appropriate).”.

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