

106TH CONGRESS  
1ST SESSION

# H. R. 2882

To regulate the use by interactive computer services of personally identifiable information provided by subscribers to such services.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 1999

Mr. VENTO introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To regulate the use by interactive computer services of personally identifiable information provided by subscribers to such services.

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; FINDINGS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Internet Consumer Information Protection Act”.

6       (b) FINDINGS.—The Congress finds the following:

7               (1) Internet technology is evolving and increas-  
8       ingly used as a medium for interaction between con-  
9       sumers and businesses.

1           (2) An expanding share of transactions taking  
2           place on-line has lead to greater consumer choice but  
3           also public concern regarding the use of personal in-  
4           formation and personal privacy.

5           (3) Use of data garnered via the Internet must  
6           be regulated, keeping in mind the unique nature of  
7           this medium, in a way which allows consumers to  
8           make informed choices and does not impede normal  
9           business activity.

10 **SEC. 2. REGULATION OF USE BY AN INTERACTIVE COM-**  
11 **PUTER SERVICE OF A SUBSCRIBER'S PER-**  
12 **SONALLY IDENTIFIABLE INFORMATION.**

13           (a) **PRIVACY POLICY.**—It is the policy of the Con-  
14 gress that each interactive computer service has an affirm-  
15 ative and continuing obligation to respect the privacy of  
16 its customers and to protect the security and confiden-  
17 tiality of those customers' nonpublic personal information  
18 that is shared or encountered in service and transactions  
19 with consumers.

20           (b) **DISCLOSURE OF PERSONALLY IDENTIFIABLE IN-**  
21 **FORMATION WITHOUT CONSENT PROHIBITED.**—

22           (1) **IN GENERAL.**—An interactive computer  
23 service shall not disclose to a third party any person-  
24 ally identifiable information provided by a subscriber  
25 to such service unless—

1 (A) such service has provided to the sub-  
2 scribe a notice that complies with paragraph  
3 (2);

4 (B) such service clearly and conspicuously  
5 discloses to the subscriber, in writing or in elec-  
6 tronic form, that such information may be dis-  
7 closed to such third parties;

8 (C) the subscriber is given the opportunity,  
9 before the time that such information is initially  
10 disclosed, to direct that such information not be  
11 disclosed to such third parties; and

12 (D) the subscriber is given an explanation  
13 of how the subscriber can exercise that non-  
14 disclosure option.

15 (2) NOTICE.—The notice required by paragraph  
16 (1)(A) shall include the policy and practices of the  
17 interactive computer service with respect to dis-  
18 closing nonpublic personal information to third par-  
19 ties.

20 (3) EXCEPTION.—This subsection shall not pro-  
21 hibit an interactive computer service from providing  
22 personally identifiable information to a third party  
23 for the performance of services or functions of the  
24 interactive computer service, other than for mar-  
25 keting purposes.

1       (c) KNOWING DISCLOSURE OF FALSIFIED PERSON-  
2 ALLY IDENTIFIABLE INFORMATION PROHIBITED.—An  
3 interactive computer service or an employee of such service  
4 shall not knowingly disclose to a third party any personally  
5 identifiable information provided by a subscriber to such  
6 service that such service, or such employee, has knowingly  
7 falsified.

8       (d) SUBSCRIBER ACCESS TO PERSONALLY IDENTIFI-  
9 ABLE INFORMATION.—

10           (1) IN GENERAL.—At a subscriber’s request, an  
11 interactive computer service shall—

12                   (A) provide the subscriber’s personally  
13 identifiable information maintained by the serv-  
14 ice to the subscriber;

15                   (B) permit the subscriber to verify such in-  
16 formation maintained by the service; and

17                   (C) permit the subscriber to correct any  
18 error in such information.

19           (2) FEE.—The service shall not charge a fee to  
20 the subscriber for making available the information  
21 under this subsection.

22 **SEC. 3. ENFORCEMENT AND RELIEF.**

23       (a) FEDERAL TRADE COMMISSION.—The Federal  
24 Trade Commission shall have the authority—

1           (1) to establish personal data guidelines that  
2           may be employed by entities to comply with the pro-  
3           visions of this act; and

4           (2) to examine and investigate an interactive  
5           computer service to determine whether such service  
6           has been or is engaged in any act or practice prohib-  
7           ited by this Act.

8           (b) RELIEF.—

9           (1) CEASE AND DESIST ORDER.—If the Federal  
10          Trade Commission determines an interactive com-  
11          puter service has been or is engaged in any act or  
12          practice prohibited by this Act, the Commission may  
13          issue a cease and desist order as if such service were  
14          in violation of section 5 of the Federal Trade Com-  
15          mission Act.

16          (2) CIVIL ACTION.—A subscriber aggrieved by a  
17          violation of section 2 may in a civil action obtain ap-  
18          propriate relief.

19   **SEC. 4. RIGHTS AND REMEDIES NOT EXCLUSIVE.**

20          The rights and remedies provided by this Act are in  
21          addition to, and not in lieu of, any and all other rights  
22          and remedies that may be available under Federal or State  
23          law.

24   **SEC. 5. DEFINITIONS.**

25          As used in this Act—

1           (1) the term “interactive computer service”  
2           means any information service that provides com-  
3           puter access to multiple users via modem to the  
4           Internet;

5           (2) the term “Internet” means the international  
6           computer network of both Federal and non-Federal  
7           interoperable packet switched data networks;

8           (3) the term “personally identifiable informa-  
9           tion” has the meaning given such term in section  
10          631 of the Communications Act of 1934 (47 U.S.C.  
11          551);

12          (4) the term “third party” means, with respect  
13          to the disclosure of personally identifiable informa-  
14          tion provided by a subscriber to an interactive com-  
15          puter service, a person or other entity other than—

16                (A) such service;

17                (B) an employee of such service;

18                (C) an affiliate of such service; or

19                (D) that subscriber to such service.

20          (5) the term “affiliate” means any company  
21          that controls, is controlled by, or is under common  
22          control with another company.

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