

106TH CONGRESS  
1ST SESSION

# S. 1740

To better protect consumers when private companies offer services or products that are provided free of charge by the Social Security Administration and the Department of Health and Human Services.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 15, 1999

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

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## A BILL

To better protect consumers when private companies offer services or products that are provided free of charge by the Social Security Administration and the Department of Health and Human 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.**

4       This Act may be cited as the “Social Security Con-  
5       sumer 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 AND PROHIBITION OF**  
 6 **SALE, TRANSFER, OR USE OF CERTAIN IN-**  
 7 **FORMATION.**

8 (a) IN GENERAL.—Part A of title XI of the Social  
 9 Security Act (42 U.S.C. 1301 et seq.) is amended by in-  
 10 serting after section 1140 the following:

11 **“SEC. 1140A. PROHIBITION OF CHARGING FOR SERVICES**  
 12 **OR PRODUCTS THAT ARE PROVIDED WITH-**  
 13 **OUT CHARGE BY THE SOCIAL SECURITY AD-**  
 14 **MINISTRATION OR THE DEPARTMENT OF**  
 15 **HEALTH AND HUMAN SERVICES AND PROHI-**  
 16 **BITION OF SALE, TRANSFER, OR USE OF CER-**  
 17 **TAIN INFORMATION.**

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

24 “(b) EXCEPTION.—A person may offer assistance for  
 25 a fee if, at the time the offer is made, the person provides,  
 26 to the individual receiving the assistance, a written notice

1 on the first page of the offer that clearly and prominently  
 2 contains the following phrase (printed in bold 16 point  
 3 type): ‘IMPORTANT PUBLIC DISCLOSURE: The  
 4 product or service described here and assistance to obtain  
 5 the product or service is available free of charge from the  
 6 Social Security Administration or the Department of  
 7 Health and Human Services. You may wish to check the  
 8 government section of your local phone book for the phone  
 9 number of your local Social Security Administration or  
 10 Department of Health and Human Services office for help  
 11 in obtaining this service for no charge or you may choose  
 12 to use our service for a fee.’.

13 “(c) SALE, TRANSFER, OR USE OF INFORMATION.—

14 “(1) IN GENERAL.—Except with prior, express,  
 15 written authorization from an individual, a person  
 16 obtaining any information regarding such individual  
 17 in connection with an offer of assistance under sub-  
 18 section (b) shall not—

19 “(A) sell or transfer such information; or

20 “(B) use such information for a purpose  
 21 other than providing such assistance.

22 “(2) REQUIRED FORM OF AUTHORIZATION.—

23 An authorization under paragraph (1) shall be pre-  
 24 sented to the individual as a separate document,  
 25 clearly explaining the purpose and effect of the au-

1       thorization and the offer under subsection (a) shall  
 2       not be contingent on such authorization.

3       “(d) IMPOSITION OF PENALTY.—

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

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

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

13       “(2) VIOLATIONS WITH RESPECT TO INDIV-  
 14       VIDUAL ITEMS.—

15              “(A) OFFER OF SERVICES.—In the case of  
 16       an offer of services consisting of pieces of mail,  
 17       each piece of mail in violation of this section  
 18       shall be a separate violation.

19              “(B) USE OF INFORMATION.—In the case  
 20       of a violation of subsection (c), each sale, trans-  
 21       fer, or use of information with respect to an in-  
 22       dividual shall be a separate violation.

23       “(e) RECOVERY OF PENALTY.—

24              “(1) PROCEDURE.—The provisions of section  
 25       1128A (other than subsections (a), (b), (f), (h), (i)

1 (other than paragraph (7)), and (m) and the first  
2 sentence of subsection (c)) shall apply to civil money  
3 penalties imposed under subsection (d) in the same  
4 manner as the provisions apply to a penalty or pro-  
5 ceeding under section 1128A(a).

6 “(2) COMPROMISE.—Penalties imposed against  
7 a person under subsection (d) may be compromised  
8 by the Commissioner or the Secretary (as applica-  
9 ble).

10 “(3) VENUE.—Penalties imposed against a per-  
11 son under subsection (d) may be recovered in a civil  
12 action in the name of the United States brought in  
13 the district court of the United States for the dis-  
14 trict in which the violation occurred or where the  
15 person resides, has its principal office, or may be  
16 found as determined by the Commissioner or the  
17 Secretary (as applicable).

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

23 “(f) USE OF PENALTY AMOUNTS RECOVERED.—

24 “(1) COSTS OF THE OFFICE OF THE INSPECTOR  
25 GENERAL.—Amounts recovered under this section

1 shall be made available to the Commissioner and the  
 2 Secretary (as applicable) to reimburse costs of the  
 3 applicable Office of the Inspector General related to  
 4 the enforcement of this section.

5 “(2) EXCESS AMOUNTS.—Amounts recovered  
 6 under this section, in excess of the amounts needed  
 7 to reimburse the Commissioner and the Secretary  
 8 under paragraph (1), shall be deposited as miscella-  
 9 neous receipts of the Treasury of the United States.

10 “(g) ENFORCEMENT.—The provisions of this section  
 11 may be enforced through the Office of the Inspector Gen-  
 12 eral of the Social Security Administration or the Office  
 13 of the Inspector General of the Department of Health and  
 14 Human Services (as appropriate).”.

15 (b) CONFORMING AMENDMENT.—The table of sec-  
 16 tions for part A of title XI of the Social Security Act is  
 17 amended by inserting after the item relating to section  
 18 1140 the following:

“Sec. 1140A. Prohibition of charging for services or products that  
 are provided without charge by the Social Security  
 Administration or the Department of Health and  
 Human Services and prohibition of sale, transfer,  
 or use of certain information.”.

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