

108TH CONGRESS
1ST SESSION

H. R. 2617

To protect American consumers from identity theft and other forms of fraud.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2003

Mr. SHADEGG introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect American consumers from identity theft and other forms of fraud.

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 “Consumer Identity and
5 Information Security Act of 2003”.

6 **SEC. 2. PROHIBITED ACTIONS WITH RESPECT TO SOCIAL**
7 **SECURITY NUMBERS.**

8 (a) DEFINITIONS.—For purposes of this section, the
9 following definitions shall apply:

1 (1) DISPLAY.—The term “display” means to in-
2 tentionally communicate or otherwise make available
3 (on the Internet or in any other manner) to the gen-
4 eral public an individual’s social security number.

5 (2) PERSON.—The term “person” means any
6 individual, partnership, corporation, trust, estate, co-
7 operative, association, or any other entity.

8 (3) STATE.—The term “State” means any
9 State of the United States, the District of Columbia,
10 Puerto Rico, the Northern Mariana Islands, the
11 United States Virgin Islands, Guam, American
12 Samoa, and any territory or possession of the
13 United States.

14 (b) PROHIBITED ACTIONS WITH RESPECT TO AN IN-
15 DIVIDUAL’S SOCIAL SECURITY NUMBER.—Subject to sub-
16 sections (c) and (d), no person may engage in any of the
17 following:

18 (1) Display in any manner an individual’s social
19 security number.

20 (2) Print or otherwise display an individual’s
21 social security number on any card, or other means
22 of access, required for the individual to access prod-
23 ucts or services provided by the person to the indi-
24 vidual.

1 (3) Require an individual to transmit the indi-
2 vidual's social security number over the Internet, un-
3 less the connection is secure or the social security
4 number is encrypted.

5 (4) Require an individual to use the individual's
6 social security number to access an Internet Web
7 site, unless a password, unique personal identifica-
8 tion number, or other authentication device is also
9 required to access the Internet Web site.

10 (5) Print or otherwise display an individual's
11 social security number on any communications by
12 the person to the individual, unless Federal or State
13 law, or any Federal agency or any contractor with
14 the Federal Government (under color of Federal
15 law), requires the individual's social security number
16 to be included on such documents.

17 (c) EXCEPTION FOR CERTAIN COMMUNICATIONS.—
18 Subsection (b)(5) shall not apply with respect an individ-
19 ual's social security number included on documents sent
20 by mail—

21 (1) in connection with an application or enroll-
22 ment process initiated by the individual; or

23 (2) to establish, amend, or terminate an ac-
24 count held by the individual with the person; or

1 (3) to verify the accuracy of the individual’s so-
2 cial security number.

3 (d) EXCEPTION FOR PRIOR ON-GOING USE.—Sub-
4 section (b) shall not apply to the use by a person of an
5 individual’s social security number in a manner that is in-
6 consistent with such subsection if—

7 (1) the use by such person of the individual’s
8 social security number in such manner began before
9 the date of the enactment of this Act;

10 (2) the use by such person of the social security
11 number in such manner is continuous; and

12 (3) the person notifies the individual, in writ-
13 ing, before the end of the 30-day period beginning
14 on the date of the enactment of this Act and annu-
15 ally thereafter, that the individual has the right to
16 require such person to stop using the individual’s so-
17 cial security number in a manner inconsistent with
18 subsection (b).

19 (e) INDIVIDUAL’S REQUEST TO STOP INCONSISTENT
20 USE.—

21 (1) IN GENERAL.—If a person receives a writ-
22 ten request from an individual to stop using the in-
23 dividual’s social security number in a manner that is
24 inconsistent with subsection (b), the person shall
25 fully comply with such request before the end of the

1 30-day period beginning on the date of the receipt
2 of the request.

3 (2) DENIAL OF PRODUCTS OR SERVICES PRO-
4 HIBITED.—A person may not deny any product or
5 service to an individual, or otherwise discriminate
6 against such individual in the provision of any such
7 product or service, solely on the basis that the indi-
8 vidual submitted a request described in paragraph
9 (1).

10 (f) COORDINATION WITH OTHER LAW.—

11 (1) IN GENERAL.—No provision of this section
12 shall be construed as prohibiting or limiting the dis-
13 play or use of an individual’s social security number
14 by any person—

15 (A) to the extent required or authorized
16 under any Federal or State law, or by any Fed-
17 eral agency or any contractor with the Federal
18 Government (under color of Federal law);

19 (B) for internal verification or administra-
20 tive purposes of the person;

21 (C) for a public health purpose, including
22 the protection of the health or safety of an indi-
23 vidual in an emergency situation;

24 (D) for a national security purpose; or

1 (E) for a law enforcement purpose, includ-
2 ing the investigation of fraud.

3 (2) STUDY AND REPORT.—

4 (A) IN GENERAL.—The Secretary of
5 Health and Human Services shall conduct a
6 study and prepare a report on all of the uses
7 of social security numbers permitted, required,
8 authorized, or excepted under any Federal law
9 and State and local uses of social security num-
10 bers.

11 (B) REPORT.—Not later than 1 year after
12 the date of enactment of this Act, the Secretary
13 of Health and Human Services shall submit a
14 report to Congress on the study conducted
15 under this paragraph.

16 (C) CONTENTS OF REPORT.—The report
17 shall include—

18 (i) a detailed description of the uses
19 of an individual's social security number
20 that are allowed as of the date of enact-
21 ment of this Act;

22 (ii) an evaluation of whether such
23 uses should be continued or discontinued
24 by appropriate legislative action; and

1 (iii) such other recommendations for
2 legislative or administrative action as the
3 Secretary determines to be appropriate.

4 (g) CIVIL PENALTIES.—

5 (1) IN GENERAL.—Any person who the Attor-
6 ney General determines has violated this section
7 shall be subject, in addition to any other penalties
8 that may be prescribed by law—

9 (A) to a civil penalty of not less than
10 \$5,000 for each such violation; and

11 (B) to a civil penalty of not less than
12 \$50,000, if the violations have occurred with
13 such frequency as to constitute a general busi-
14 ness practice.

15 (2) DETERMINATION OF VIOLATIONS.—Any
16 knowing violation committed contemporaneously
17 with respect to the social security numbers of 2 or
18 more individuals by means of mail, telecommuni-
19 cation, or otherwise, shall be treated as a separate
20 violation with respect to each such individual.

21 (3) ENFORCEMENT PROCEDURES.—The provi-
22 sions of section 1128A of the Social Security Act
23 (42 U.S.C. 1320a–7a), other than subsections (a),
24 (b), (f), (h), (i), (j), (m), and (n) and the first sen-
25 tence of subsection (c) of such section, and the pro-

1 (2) the expiration date of any such credit card,
2 debit card, or other means of access to a consumer's
3 account.

4 (b) SCOPE OF APPLICATION.—This section applies
5 only to receipts that are electronically printed, and shall
6 not apply to transactions in which the sole means of re-
7 cording the credit card or debit card account number, or
8 the account number of a consumer's account, is by hand-
9 writing or by an imprint or copy of the credit card, debit
10 card, or other means of access.

11 (c) DEFINITIONS.—For purposes of this section, the
12 following definitions shall apply:

13 (1) CONSUMER'S ACCOUNT.—The term “con-
14 sumer's account” means an account (as defined in
15 paragraph (2) of section 903 of the Electronic Fund
16 Transfer Act) of a consumer (as defined in para-
17 graph (5) of such section).

18 (2) CREDIT CARD.—The term “credit card” has
19 the same meaning as in section 103(k) of the Truth
20 in Lending Act.

21 (3) DEBIT CARD.—The term “debit card”
22 means any card issued by a financial institution to
23 a consumer for use in initiating electronic fund
24 transfers from the account of the consumer at such
25 financial institution for the purpose of transferring

1 money between accounts or obtaining money, prop-
2 erty, labor, or services.

3 (4) ELECTRONIC FUND TRANSFER.—The term
4 “electronic fund transfer” has the same meaning as
5 in section 903(6) of the Electronic Fund Transfer
6 Act.

7 (d) EFFECTIVE DATE.—This section shall take effect
8 on January 1, 2005, with respect to any cash register or
9 other machine or device that electronically prints receipts
10 for credit card transactions.

11 (e) CIVIL LIABILITY.—Any person who violates this
12 section with regard to any credit card, debit card, or other
13 means of access to a consumer’s account shall be liable
14 for any damages or expenses, including reasonable attor-
15 ney’s fees, that the card holder or consumer incurs as a
16 result of such violation, including losses incurred from the
17 unauthorized use of the account number of any such credit
18 card, debit card, or consumer’s account as a result of such
19 violation.

20 **SEC. 4. IDENTITY THEFT PREVENTION.**

21 (a) DUTY OF ISSUERS OF CREDIT AND DEBIT
22 CARDS.—

23 (1) CREDIT CARDS.—Section 132 of the Truth
24 in Lending Act (15 U.S.C. 1642) is amended—

1 (A) by inserting “(a) IN GENERAL.—” be-
2 fore “No credit”; and

3 (B) by adding at the end the following:

4 “(b) VERIFICATION OF CONSUMER IDENTITY UPON
5 RECEIVING A REQUEST FOR AN ADDITIONAL CARD
6 AFTER A CHANGE OF ADDRESS.—Each card issuer shall
7 establish procedures for verifying the identification of a
8 consumer whenever the card issuer receives a request from
9 a consumer for an additional credit card with respect to
10 an existing credit account not later than 30 days after
11 receiving notification of a change of address for that ac-
12 count.”.

13 (2) DEBIT CARDS.—Section 911 of the Elec-
14 tronic Fund Transfer Act (15 U.S.C. 1693i) is
15 amended by adding at the end the following new
16 subsection:

17 “(d) VERIFICATION OF CONSUMER IDENTITY UPON
18 RECEIVING A REQUEST AFTER A CHANGE OF AD-
19 DRESS.—Each person who issues to a consumer any code,
20 card, or other means of access to such consumer’s account
21 shall establish procedures for verifying the identification
22 of the consumer whenever such person receives a request
23 from a consumer for an additional card, code, or other
24 means of access to the consumer’s account not later than

1 30 days after receiving notification of a change of address
2 for that account.”.

3 (b) **CENTRALIZED REPORTING SYSTEM.**—The Fed-
4 eral Trade Commission shall coordinate the establishment
5 of a centralized reporting system in which all consumer
6 reporting agencies (as defined in section 603 of the Fair
7 Credit Reporting Act) shall participate that will—

8 (1) allow any consumer or business to report,
9 through the use of an nationwide free telephone
10 number and an Internet Web site address, any sus-
11 pected violation of section 1028 of title 18, United
12 States Code; and

13 (2) allow such information to be immediately
14 shared among all such consumer reporting agencies.

15 **SEC. 5. FRAUD ALERTS.**

16 Section 605 of the Fair Credit Reporting Act (15
17 U.S.C. 1681c) is amended by adding at the end the fol-
18 lowing new subsection:

19 “(g) **FRAUD ALERTS.**—

20 “(1) **FRAUD ALERT DEFINED.**—For purposes of
21 this subsection, the term ‘fraud alert’ means a state-
22 ment in the file of a consumer that notifies all pro-
23 spective users of a consumer report made with re-
24 spect to that consumer that—

1 “(A) the consumer’s identity may have
2 been used, without the consumer’s consent, to
3 fraudulently obtain goods or services in the con-
4 sumer’s name; and

5 “(B) the consumer does not authorize the
6 issuance or extension of credit in the name of
7 the consumer unless the issuer of such credit
8 utilizes reasonable procedures established by the
9 issuer to verify the consumer’s identity and ob-
10 tain the consumer’s authorization whenever the
11 card issuer receives a request for credit.

12 “(2) INCLUSION OF FRAUD ALERT IN CON-
13 SUMER FILE.—Upon the request of a consumer, or
14 another third party who has the consumer’s consent
15 to request a fraud alert on the consumer’s behalf,
16 and upon receiving proper identification, a consumer
17 reporting agency shall include a fraud alert in the
18 file of that consumer and shall maintain the fraud
19 alert for not less than 1 year, unless the consumer
20 requests a shorter time period.

21 “(3) NOTICE SENT BY CONSUMER REPORTING
22 AGENCIES TO USERS.—A consumer reporting agency
23 shall notify each person procuring consumer credit
24 information with respect to a consumer of the exist-
25 ence of a fraud alert in the file of that consumer,

1 regardless of whether a full credit report, credit
2 score, or summary report is requested.

3 “(4) NOTICE TO NATIONWIDE CONSUMER RE-
4 PORTING AGENCIES.—Whenever a consumer report-
5 ing agency that compiles and maintains files on con-
6 sumers on a nationwide basis receives a request
7 from a consumer, directly or through another con-
8 sumer reporting agency, to include a fraud alert in
9 the consumer’s file, the consumer reporting agency
10 shall promptly notify every other consumer reporting
11 agency that compiles and maintains files on con-
12 sumers on a nationwide basis that such request has
13 been received and each such other agency shall com-
14 ply with paragraph (2) in the same manner as if the
15 agency had received the request directly from the
16 consumer.

17 “(5) TOLL-FREE TELEPHONE NUMBER.—Each
18 consumer reporting agency referred to in paragraph
19 (4) shall establish and maintain a toll-free telephone
20 number for consumers to request fraud alerts.

21 “(6) PROCEDURES TO RECEIVE FRAUD
22 ALERTS.—Any person who uses a consumer credit
23 report in connection with a credit transaction shall
24 establish reasonable procedures to receive fraud
25 alerts transmitted by consumer reporting agencies.

1 “(7) VIOLATIONS.—

2 “(A) CONSUMER REPORTING AGENCY.—

3 Any consumer reporting agency that fails to no-
4 tify any user of a consumer credit report of the
5 existence of a fraud alert in that report shall be
6 in violation of this section.

7 “(B) USER OF A CONSUMER REPORT.—

8 Any user of a consumer report that fails to
9 comply with preauthorization procedures con-
10 tained in a fraud alert and issues or extends
11 credit in the name of the consumer to a person
12 other than the consumer shall be in violation of
13 this section.

14 “(8) EXEMPT INSTITUTIONS.—The requirement
15 under this subsection to place a fraud alert in a con-
16 sumer file shall not apply to—

17 “(A) check services company or a fraud
18 prevention company, which issues authoriza-
19 tions for the purpose of approving or processing
20 negotiable instruments, electronic funds trans-
21 fers or similar methods of payments; or

22 “(B) deposit account information service
23 company, which issues reports regarding ac-
24 count closures due to fraud, substantial over-
25 drafts, automated teller machine abuse, or simi-

1 lar negative information regarding a consumer,
2 to inquiring banks or other financial institu-
3 tions for use only in reviewing a consumer re-
4 quest for a deposit account at the inquiring
5 bank or financial institution.

6 “(9) POLICY REVIEW AND REGULATION.—

7 “(A) REVIEW.—Any agency referred to in
8 subsection (a) or (c) of section 621 shall, upon
9 the request of any person under the jurisdiction
10 of such agency pursuant to this title—

11 “(i) review any policy or procedure es-
12 tablished by such person to carry out the
13 purposes of this subsection to determine
14 the effectiveness and reasonableness of the
15 policy or procedure for such purposes; and

16 “(ii) make such recommendations to
17 such person for improvement in such policy
18 or procedure as the agency may determine
19 to be appropriate.

20 “(B) REGULATION.—Each agency referred
21 to in subparagraph (A) shall establish proce-
22 dures for conducting reviews under such sub-
23 paragraph.”.

1 **SEC. 6. BUSINESS GUIDELINES.**

2 (a) IN GENERAL.—Not later than the end of the 1-
3 year period beginning on the date of the enactment of this
4 Act, the Federal Trade Commission, after consultation
5 with the Federal functional regulators (as defined in sec-
6 tion 509(2) of the Gramm-Leach-Bliley Act), shall estab-
7 lish procedures to—

8 (1) log and acknowledge the receipt of com-
9 plaints of any person who has a reasonable belief
10 that information maintained in a database of such
11 person relating to any other person has likely been
12 stolen or compromised;

13 (2) provide informational materials and guide-
14 lines for a business to follow when customer or other
15 information in the business' database has likely been
16 stolen or compromised;

17 (3) provide guidelines for a business to follow in
18 notifying customers of the likelihood that informa-
19 tion concerning such customers has been stolen or
20 compromised; and

21 (4) refer complaints described in paragraph (1)
22 to—

23 (A) each consumer reporting agency that
24 compiles and maintains files on consumers on a
25 nationwide basis (as defined in section 603 of
26 the Fair Credit Reporting Act), together with

1 any recommendation for the implementation for
2 such fraud alert as the Commission may deter-
3 mine to be appropriate;

4 (B) appropriate law enforcement agencies.

5 (b) POLICY REVIEW AND REGULATION.—

6 (1) REVIEW.—The Federal Trade Commission
7 and any Federal functional regulator (as defined in
8 section 509(2) of the Gramm-Leach-Bliley Act)
9 shall, upon the request of any person under the ju-
10 risdiction of such agency—

11 (A) review any policy or procedure estab-
12 lished by such person to follow in the event that
13 information maintained in a database of such
14 person has likely been stolen or compromised to
15 determine the effectiveness and reasonableness
16 of the policy or procedure for such purposes;
17 and

18 (B) make such recommendations to such
19 person for improvement in such policy or proce-
20 dure as the agency may determine to be appro-
21 priate.

22 (2) REGULATION.—Each agency referred to in
23 subparagraph (A) shall establish procedures for con-
24 ducting reviews under such subparagraph.”.

1 **SEC. 7. SPECIFICATION OF CONSTITUTIONAL AUTHORITY**
2 **FOR ENACTMENT OF LAW.**

3 This Act is enacted pursuant to the power granted
4 Congress under section 8 of article I of the United States
5 Constitution.

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