

109TH CONGRESS
1ST SESSION

S. 1798

To amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2005

Mr. CORZINE (for himself, Mr. JOHNSON, Mr. LAUTENBERG, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act.

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 “Medicare Do Not Call
5 Act”.

6 **SEC. 2. TELEMARKETING PROHIBITED.**

7 (a) **PRESCRIPTION DRUG PLANS.**—Section 1860D–
8 4(a) of the Social Security Act (42 U.S.C. 1395w–l04(a))

1 is amended by adding at the end the following new para-
 2 graph:

3 “(5) PROHIBITION ON TELEMARKETING.

4 “(A) IN GENERAL.—A PDP sponsor offer-
 5 ing a prescription drug plan shall be prohibited
 6 from conducting outbound call telemarketing
 7 (as defined in subparagraph (B)) for the pur-
 8 pose of soliciting enrollment into such a plan
 9 under this part.

10 “(B) OUTBOUND CALL TELEMARKETING
 11 DEFINED.—

12 “(i) IN GENERAL.—Except as pro-
 13 vided in clause (ii), for purposes of this
 14 paragraph, the term ‘outbound call tele-
 15 marketing’ means a telephone call initiated
 16 by a telemarketer—

17 “(I) to induce the purchase of
 18 goods or services; or

19 “(II) to solicit a charitable con-
 20 tribution.

21 “(ii) CATALOG MAILINGS NOT IN-
 22 CLUDED IN DEFINITION OF OUTBOUND
 23 CALL TELEMARKETING.—Such term does
 24 not include—

25 “(I) the mailing of a catalog; or

1 “(II) the receipt or return of a
 2 telephone call initiated by a customer
 3 in response to such mailing.”.

4 (b) MEDICARE ADVANTAGE ORGANIZATIONS.—Sec-
 5 tion 1851(h) of the Social Security Act (42 U.S.C.
 6 1395w–21(h)) is amended by adding at the end the fol-
 7 lowing new paragraph:

8 “(6) PROHIBITION ON TELEMARKETING.—A
 9 Medicare Advantage organization offering a Medi-
 10 care Advantage plan shall be prohibited from con-
 11 ducting outbound call telemarketing (as defined in
 12 section 1860D–4(a)(5)(B)) for the purpose of solici-
 13 ting enrollment into such a plan under this part.”.

14 (c) CRIMINAL PENALTIES FOR FRAUDULENT TELE-
 15 MARKETING.—Section 1128B of the Social Security Act
 16 (42 U.S.C. 1320a–7b) is amended by adding at the end
 17 the following new subsection:

18 “(g) Whoever knowingly and willfully engages in de-
 19 ceptive or abusive telemarketing acts or practices (as de-
 20 fined in part 310.3 and part 310.4, respectively, of title
 21 16, Code of Federal Regulations), or makes any false ,
 22 statement or representation of a material fact while con-
 23 ducting outbound call telemarketing (as defined in section
 24 1860D–4(a)(5)(B)) with respect to a prescription drug
 25 plan offered by a PDP sponsor under part D of title

1 XVIII, a Medicare Advantage plan offered by a Medicare
 2 Advantage organization under part C of such title, or who
 3 falsely alleges to be conducting outbound call tele-
 4 marketing (as so defined) with respect to either such a
 5 plan, shall be guilty of a felony and upon conviction there-
 6 of shall be fined not more than \$25,000 or imprisoned
 7 for not more than five years, or both.”.

8 (d) EFFECTIVE DATE.—The amendments made by
 9 this section shall take effect on the date of enactment of
 10 this Act.

11 **SEC. 3. INCREASED FUNDING FOR STATE HEALTH INSUR-**
 12 **ANCE COUNSELING AND ASSISTANCE PRO-**
 13 **GRAMS.**

14 (a) IN GENERAL.—There are hereby appropriated to
 15 the Secretary of Health and Human Services (in this Act
 16 referred to as the “Secretary”) an amount equal to \$2
 17 multiplied by the total number of individuals eligible for
 18 benefits under title XVIII of the Social Security Act (42
 19 U.S.C. 1395 et seq.). Such funds shall—

20 (1) be used by the Secretary to award grants to
 21 States under section 4360 of the Omnibus Budget
 22 Reconciliation Act of 1990 (42 U.S.C. 1395b–4);
 23 and

24 (2) remain available until expended.

1 (b) ALLOCATION OF GRANT FUNDS.—The Secretary
2 shall ensure that funds appropriated under this section are
3 allocated to States in an amount equal to the proportion
4 of the number of residents in the State that are eligible
5 for benefits under title XVIII of the Social Security Act
6 (42 U.S.C. 1395 et seq.) in relation to the total number
7 of individuals eligible for such benefits under such title.

8 **SEC. 4. INFORMING BENEFICIARIES OF THE HHS TIPS HOT-**
9 **LINE.**

10 The Secretary shall take appropriate measures to in-
11 form individuals eligible for benefits under title XVIII of
12 the Social Security Act (42 U.S.C. 1395 et seq.) of the
13 availability and confidentiality of the hotline maintained
14 by the Inspector General of the Department of Health and
15 Human Services for the reporting of fraud, waste, and
16 abuse in the medicare program.

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