

111TH CONGRESS
2D SESSION

S. 3843

To require disclosure of the physical location of business agents engaging
in customer service communications, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2010

Mr. SCHUMER (for himself, Mrs. GILLIBRAND, Mr. FEINGOLD, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require disclosure of the physical location of business
agents engaging in customer service communications, and
for other purposes.

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 “Notification of Origin
5 of Telecommunications and Internet Consumer Exchanges
6 Act of 2010” or the “NOTICE Act of 2010”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) BUSINESS ENTITY.—The term “business
2 entity” means any organization, corporation, trust,
3 partnership, sole proprietorship, unincorporated as-
4 sociation, or venture established to make a profit, in
5 whole or in part, by purposefully availing itself of
6 the privilege of conducting commerce in the United
7 States.

8 (2) COMMERCE.—The term “commerce” has
9 the meaning given the term in section 3(a) of the
10 Consumer Product Safety Act (15 U.S.C. 2052(a)).

11 (3) CONSUMER.—The term “consumer” means
12 any individual within the territorial jurisdiction of
13 the United States who purchases, transacts, or con-
14 tracts for the purchase or transaction of any goods,
15 merchandise, or services, not for resale in the ordi-
16 nary course of the individual’s trade or business, but
17 for the individual’s use or that of a member of the
18 individual’s household.

19 (4) CUSTOMER SERVICE COMMUNICATION.—
20 The term “customer service communication” means
21 any telecommunication or wire communication be-
22 tween a consumer and a business entity in further-
23 ance of commerce.

24 (5) TELECOMMUNICATION.—The term “tele-
25 communication” means the transmission, between or

1 among points specified by the communicator, of in-
2 formation of the communicator's choosing, without
3 change in the form or content of the information as
4 sent and received.

5 (6) WIRE COMMUNICATION.—The term “wire
6 communication” or “communication by wire” means
7 the transmission of writing, signs, signals, pictures,
8 and sounds of all kinds by aid of wire, cable, or
9 other like connection between the points of origin
10 and reception of such transmission, including all in-
11 strumentalities, facilities, apparatus, and services
12 (among other things, the receipt, forwarding, and
13 delivery of communications) incidental to such trans-
14 mission.

15 **SEC. 3. REQUIRED DISCLOSURE BY BUSINESS ENTITIES EN-**
16 **GAGED IN CUSTOMER SERVICE COMMUNICA-**
17 **TIONS OF PHYSICAL LOCATION.**

18 (a) IN GENERAL.—Except as provided in subsection
19 (b), a business entity that either initiates or receives a cus-
20 tomer service communication shall require that each of its
21 employees or agents participating in the communication
22 disclose their physical location at the beginning of each
23 customer service communication so initiated or received.

24 (b) EXCEPTIONS.—

1 (1) BUSINESS ENTITIES LOCATED IN THE
2 UNITED STATES.—The requirements of subsection
3 (a) shall not apply to a customer service communica-
4 tion involving a business entity if all of the employ-
5 ees or agents of the business entity participating in
6 such communication are physically located in the
7 United States.

8 (2) COMMUNICATION INITIATED BY CONSUMER
9 KNOWINGLY TO FOREIGN ENTITY OR ADDRESS.—
10 The requirements of subsection (a) shall not apply
11 to an employee or agent of a business entity partici-
12 pating in a customer service communication with a
13 consumer if—

14 (A) the customer service communication
15 was initiated by the consumer;

16 (B) the employee or agent is physically lo-
17 cated outside the United States; and

18 (C) the consumer knows or reasonably
19 should know that the employee or agent is
20 physically located outside the United States.

21 (3) EMERGENCY SERVICES.—The requirements
22 of subsection (a) shall not apply to a customer serv-
23 ice communication relating to the provision of emer-
24 gency services (as defined by the Federal Trade
25 Commission).

1 (4) BUSINESS ENTITIES AND CUSTOMER SERV-
2 ICE COMMUNICATIONS EXCLUDED BY FEDERAL
3 TRADE COMMISSION.—The Federal Trade Commis-
4 sion may exclude certain classes or types of business
5 entities or customer service communications from
6 the requirements of subsection (a) if the Commission
7 finds exceptionally compelling circumstances that
8 justify such exclusion.

9 (c) CERTIFICATION REQUIREMENT.—Each year,
10 each business entity that participates in a customer service
11 communication shall certify to the Federal Trade Commis-
12 sion that it has complied or failed to comply with the re-
13 quirements of subsection (a).

14 (d) REGULATIONS.—Not later than 1 year after the
15 date of the enactment of this Act, the Federal Trade Com-
16 mission shall promulgate such regulations as may be nec-
17 essary to carry out the provisions of this Act.

18 (e) EFFECTIVE DATE.—The requirements of sub-
19 section (a) shall apply with respect to customer service
20 communications occurring on or after the date that is 1
21 year after the date of the enactment of this Act.

22 **SEC. 4. ENFORCEMENT.**

23 (a) IN GENERAL.—Any failure to comply with the
24 provisions of section 3 shall be treated as a violation of
25 a regulation under section 18(a)(1)(B) of the Federal

1 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regard-
2 ing unfair or deceptive acts or practices.

3 (b) POWERS OF FEDERAL TRADE COMMISSION.—

4 (1) IN GENERAL.—The Federal Trade Commis-
5 sion shall prevent any person from violating this
6 Act, and any regulation promulgated thereunder, in
7 the same manner, by the same means, and with the
8 same jurisdiction, powers, and duties as though all
9 applicable terms and provisions of the Federal Trade
10 Commission Act (15 U.S.C. 41 et seq.) were incor-
11 porated into and made a part of this Act.

12 (2) PENALTIES.—Any person who violates regu-
13 lations promulgated under this Act shall be subject
14 to the penalties and entitled to the privileges and
15 immunities provided in the Federal Trade Commis-
16 sion Act in the same manner, by the same means,
17 and with the same jurisdiction, power, and duties as
18 though all applicable terms and provisions of the
19 Federal Trade Commission Act were incorporated
20 into and made part of this Act.

21 (c) AUTHORITY PRESERVED.—Nothing in this Act
22 shall be construed to limit the authority of the Federal
23 Trade Commission under any other provision of law.

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