

112TH CONGRESS
2D SESSION

S. 3556

To provide penalties for email marketing fraud.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2012

Mr. WHITEHOUSE (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide penalties for email marketing 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 “Telemarketing Fraud
5 Modernization Act of 2012”.

6 **SEC. 2. INVESTMENT SCAMS.**

7 Section 2325(1) of title 18, United States Code, is
8 amended—

9 (1) in subparagraph (B), by striking “or,” at
10 the end;

1 (2) in subparagraph (C), by striking “value,”
 2 and inserting “value;”; and

3 (3) by inserting before “by use of 1” the fol-
 4 lowing:

5 “(D) investment for financial profit;

6 “(E) participation in a business oppor-
 7 tunity; or

8 “(F) commitment to a loan.”.

9 **SEC. 3. ENHANCED PENALTIES FOR HEALTH CARE FRAUD.**

10 Section 2326 of title 18, United States Code, is
 11 amended in the matter preceding paragraph (1), by strik-
 12 ing “or 1344” and inserting “1344, or 1347 or section
 13 1128B of the Social Security Act (42 U.S.C. 1320a–7b)”.

14 **SEC. 4. EMAIL MARKETING SCAMS.**

15 (a) IN GENERAL.—Chapter 113A of title 18, United
 16 States Code, is amended—

17 (1) in the chapter heading by inserting “**AND**
 18 **EMAIL MARKETING**” after “**TELE-**
 19 **MARKETING**”;

20 (2) in section 2325—

21 (A) in the matter preceding paragraph (1)
 22 by inserting “or email marketing” after “tele-
 23 marketing”;

24 (B) in paragraph (1), as amended by sec-
 25 tion 2, in the flush text following subparagraph

(F), by inserting “, emails, text messages, or electronic instant messages” after “interstate telephone calls”; and

(C) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting “posting, publication, or” before “mailing”; and

(ii) in the flush text following subparagraph (D)—

(I) by inserting “, email, text message, or electronic instant message” after “by telephone”;

(II) by striking “receives calls” and inserting “receives interstate telephone calls, emails, text messages, or electronic instant messages”; and

(III) by striking “during those calls takes orders without” and inserting “in response to those interstate telephone calls, emails, text messages, or electronic instant messages does not conduct”; and

(3) in section 2326, in the matter preceding paragraph (1), as amended by section 3, by inserting “or email marketing” after “telemarketing”.

1 (b) CONFORMING AMENDMENT.—The table of chap-
 2 ters at the beginning of part I of title 18, United States
 3 Code, is amended by striking the item relating to chapter
 4 113A and inserting the following:

“113A. Telemarketing and email marketing fraud 2325”.

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