

106TH CONGRESS
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S. 699

To protect the public, especially senior citizens, against telemarketing fraud, including fraud over the Internet, and to authorize an educational campaign to improve senior citizens' ability to protect themselves against telemarketing fraud.

IN THE SENATE OF THE UNITED STATES

MARCH 24, 1999

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

A BILL

To protect the public, especially senior citizens, against telemarketing fraud, including fraud over the Internet, and to authorize an educational campaign to improve senior citizens' ability to protect themselves against telemarketing fraud.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **TITLE I—TELEMARKETING**
2 **FRAUD AND SENIORS PRO-**
3 **TECTION ACT**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Telemarketing Fraud
6 and Seniors Protection Act”.

7 **SEC. 102. FINDINGS.**

8 Congress makes the following findings:

9 (1) Telemarketing fraud costs consumers nearly
10 \$40,000,000,000 each year.

11 (2) Senior citizens are often the target of tele-
12 marketing fraud.

13 (3) Fraudulent telemarketers compile into so-
14 called “mooch lists” the names of consumers who
15 are potentially vulnerable to telemarketing fraud.

16 (4) According to the American Association of
17 Retired Persons, 56 percent of the names on such
18 “mooch lists” are individuals age 50 or older.

19 (5) The Department of Justice has undertaken
20 successful investigations and prosecutions of tele-
21 marketing fraud through various operations, includ-
22 ing “Operation Disconnect”, “Operation Senior Sen-
23 tinel”, and “Operation Upload”.

24 (6) The Federal Bureau of Investigation has
25 helped provide resources to assist organizations such

1 as the American Association of Retired Persons to
2 operate outreach programs designed to warn senior
3 citizens whose names appear on confiscated “mooch
4 lists”.

5 (7) The Administration on Aging was formed,
6 in part, to provide senior citizens with the resources,
7 information, and assistance their special cir-
8 cumstances require.

9 (8) The Administration on Aging has a system
10 in place to inform senior citizens of the dangers of
11 telemarketing fraud.

12 (9) Senior citizens need to be warned of the
13 dangers of telemarketing fraud before they become
14 victims of such fraud.

15 **SEC. 103. PURPOSE.**

16 It is the purpose of this title to protect senior citizens,
17 through education and outreach, from the dangers of tele-
18 marketing fraud and fraud over the Internet and to facili-
19 tate the investigation and prosecution of fraudulent tele-
20 marketers.

21 **SEC. 104. DISSEMINATION OF INFORMATION.**

22 (a) IN GENERAL.—The Secretary of Health and
23 Human Services, acting through the Assistant Secretary
24 of Health and Human Services for Aging, shall publicly
25 disseminate in each State information designed to educate

1 senior citizens and raise awareness about the dangers of
2 telemarketing fraud and fraud over the Internet.

3 (b) INFORMATION.—In carrying out subsection (a),
4 the Secretary shall—

5 (1) inform senior citizens of the prevalence of
6 telemarketing fraud targeted against them;

7 (2) inform senior citizens how telemarketing
8 fraud works;

9 (3) inform senior citizens how to identify tele-
10 marketing fraud;

11 (4) inform senior citizens how to protect them-
12 selves against telemarketing fraud, including an ex-
13 planation of the dangers of providing bank account,
14 credit card, or other financial or personal informa-
15 tion over the telephone to unsolicited callers;

16 (5) inform senior citizens how to report sus-
17 pected attempts at telemarketing fraud;

18 (6) inform senior citizens of their consumer
19 protection rights under Federal law; and

20 (7) provide such other information as the Sec-
21 retary considers necessary to protect senior citizens
22 against fraudulent telemarketing.

23 (c) MEANS OF DISSEMINATION.—The Secretary shall
24 determine the means to disseminate information under

1 this section. In making such determination, the Secretary
2 shall consider—

3 (1) public service announcements;

4 (2) a printed manual or pamphlet;

5 (3) an Internet website; and

6 (4) telephone outreach to individuals whose
7 names appear on so-called “mooch lists” confiscated
8 from fraudulent telemarketers.

9 (d) PRIORITY.—In disseminating information under
10 this section, the Secretary shall give priority to areas with
11 high concentrations of senior citizens.

12 **SEC. 105. AUTHORITY TO ACCEPT GIFTS.**

13 The Secretary of Health and Human Services may
14 accept, use, and dispose of unconditional gifts, bequests,
15 or devises of services or property, both real and personal,
16 in order to carry out this title.

17 **SEC. 106. DEFINITION.**

18 For purposes of this title, the term “State” includes
19 the District of Columbia, the Commonwealth of Puerto
20 Rico, Guam, the Virgin Islands, American Samoa, and the
21 Commonwealth of the Northern Mariana Islands.

1 **TITLE II—TELEMARKETING**
 2 **FRAUD OVER THE INTERNET**

3 **SEC. 201. EXTENSION OF CRIMINAL FRAUD STATUTE TO**
 4 **INTERNET.**

5 (a) EXTENSION.—Section 1343 of title 18, United
 6 States Code, is amended by—

7 (1) by inserting “(a)” before “Whoever”;

8 (2) in subsection (a), as so designated, by strik-
 9 ing “or television communication” and inserting
 10 “television, or Internet communication”; and

11 (3) by adding at the end thereof the following:

12 “(b) For purposes of this section, the term ‘Internet’
 13 means collectively the myriad of computer and tele-
 14 communications facilities, including equipment and oper-
 15 ating software, which comprise the interconnected world-
 16 wide network of networks that employ the Transmission
 17 Control Protocol/Internet Protocol, or any predecessor or
 18 successor protocols to such protocol, to communicate in-
 19 formation of all kinds by wire or radio.”.

20 (b) CONFORMING AND CLERICAL AMENDMENTS.—

21 (1) The section heading of such section is amended to read
 22 as follows:

1 **“§ 1343. Fraud by wire, radio, television, or Internet”.**

2 (2) The table of sections at the beginning of chapter
3 63 of that title is amended by striking the item relating
4 to section 1343 and inserting the following new item:

“1343. Fraud by wire, radio, television, or Internet.”.

5 **SEC. 202. FEDERAL TRADE COMMISSION SANCTIONS.**

6 (a) RULEMAKING TO APPLY SANCTIONS.—The Fed-
7 eral Trade Commission shall initiate a rulemaking pro-
8 ceeding to set forth the application of section 5 of the Fed-
9 eral Trade Commission Act (15 U.S.C. 45), and other
10 statutory provisions within its jurisdiction, to deceptive
11 acts or practices in or affecting the commerce of the
12 United States in connection with the promotion, advertise-
13 ment, offering for sale, or sale of goods or services through
14 use of the Internet, including the initiation, transmission,
15 and receipt of unsolicited commercial electronic mail.

16 (b) INTERNET DEFINED.—In this section, the term
17 “Internet” means collectively the myriad of computer and
18 telecommunications facilities, including equipment and op-
19 erating software, which comprise the interconnected
20 world-wide network of networks that employ the Trans-
21 mission Control Protocol/Internet Protocol, or any prede-
22 cessor or successor protocols to such protocol, to commu-
23 nicate information of all kinds by wire or radio.

