

107TH CONGRESS
2^D SESSION

S. 848

To amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2001

Mrs. FEINSTEIN (for herself and Mr. GREGG) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

MAY 16 (legislative day, MAY 9), 2002

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MAY 16 (legislative day, MAY 9), 2002

Ordered referred to the Committee on Finance

A BILL

To amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, 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; TABLE OF CONTENTS.**
4 (a) ~~SHORT TITLE.~~—This Act may be cited as the
5 ~~“Social Security Number Misuse Prevention Act of 2001”.~~

1 (b) **TABLE OF CONTENTS.**—The table of contents of
2 this Act is as follows:

- See. 1. Short title; table of contents.
- See. 2. Findings.
- See. 3. Prohibition of the display, sale, or purchase of social security numbers.
- See. 4. No prohibition with respect to public records.
- See. 5. Rulemaking authority of the Attorney General.
- See. 6. Treatment of social security numbers on government documents.
- See. 7. Limits on personal disclosure of a social security number for consumer transactions.
- See. 8. Extension of civil monetary penalties for misuse of a social security number.

3 **SEC. 2. FINDINGS.**

4 Congress makes the following findings:

5 (1) The inappropriate display, sale, or purchase
6 of social security numbers has contributed to a
7 growing range of illegal activities, including fraud,
8 identity theft, and, in some cases, stalking and other
9 violent crimes.

10 (2) While financial institutions, health care pro-
11 viders, and other entities have often used social se-
12 curity numbers to confirm the identity of an indi-
13 vidual, the general display to the public, sale, or pur-
14 chase of these numbers has been used to commit
15 crimes, and also can result in serious invasions of in-
16 dividual privacy.

17 (3) The Federal Government requires virtually
18 every individual in the United States to obtain and
19 maintain a social security number in order to pay
20 taxes, to qualify for social security benefits, or to

1 seek employment. An unintended consequence of
2 these requirements is that social security numbers
3 have become tools that can be used to facilitate
4 crime, fraud, and invasions of the privacy of the in-
5 dividuals to whom the numbers are assigned. Be-
6 cause the Federal Government created and main-
7 tains this system, and because the Federal Govern-
8 ment does not permit individuals to exempt them-
9 selves from those requirements, it is appropriate for
10 the Federal Government to take steps to stem the
11 abuse of this system.

12 (4) A social security number does not contain,
13 reflect, or convey any publicly significant informa-
14 tion or concern any public issue. The display, sale,
15 or purchase of such numbers in no way facilitates
16 uninhibited, robust, and wide-open public debate,
17 and restrictions on such display, sale, or purchase
18 would not affect public debate.

19 (5) No one should seek to profit from the dis-
20 play, sale, or purchase of social security numbers in
21 circumstances that create a substantial risk of phys-
22 ical, emotional, or financial harm to the individuals
23 to whom those numbers are assigned.

24 (6) Consequently, this Act offers each indi-
25 vidual that has been assigned a social security num-

1 ber necessary protection from the display, sale, and
 2 purchase of that number in any circumstance that
 3 might facilitate unlawful conduct.

4 **SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PUR-**
 5 **CHASE OF SOCIAL SECURITY NUMBERS.**

6 (a) PROHIBITION.—

7 (1) IN GENERAL.—Chapter 47 of title 18,
 8 United States Code, is amended by inserting after
 9 section 1028 the following:

10 **“§ 1028A. Prohibition of the display, sale, or purchase**
 11 **of social security numbers**

12 “(a) DEFINITIONS.—In this section:

13 “(1) DISPLAY.—The term ‘display’ means to in-
 14 tentiously communicate or otherwise make available
 15 (on the Internet or in any other manner) to the gen-
 16 eral public an individual’s social security number.

17 “(2) PERSON.—The term ‘person’ means any
 18 individual, partnership, corporation, trust, estate, co-
 19 operative, association, or any other entity.

20 “(3) PURCHASE.—The term ‘purchase’ means
 21 providing directly or indirectly, anything of value in
 22 exchange for a social security number.

23 “(4) SALE.—The term ‘sale’ means obtaining,
 24 directly or indirectly, anything of value in exchange
 25 for a social security number.

1 “(5) STATE.—The term ‘State’ means any
2 State of the United States, the District of Columbia,
3 Puerto Rico, the Northern Mariana Islands, the
4 United States Virgin Islands, Guam, American
5 Samoa, and any territory or possession of the
6 United States.

7 “(b) LIMITATION ON DISPLAY.—Except as provided
8 in section 1028B, no person may display any individual’s
9 social security number to the general public without the
10 affirmatively expressed consent of the individual.

11 “(c) LIMITATION ON SALE OR PURCHASE.—Except
12 as otherwise provided in this section, no person may sell
13 or purchase any individual’s social security number with-
14 out the affirmatively expressed consent of the individual.

15 “(d) PROHIBITION OF WRONGFUL USE AS PER-
16 SONAL IDENTIFICATION NUMBER.—No person may obtain
17 any individual’s social security number for purposes of lo-
18 cating or identifying an individual with the intent to phys-
19 ically injure, harm, or use the identity of the individual
20 for any illegal purpose.

21 “(e) PREREQUISITES FOR CONSENT.—In order for
22 consent to exist under subsection (b) or (c), the person
23 displaying or seeking to display, selling or attempting to
24 sell, or purchasing or attempting to purchase, an individ-
25 ual’s social security number shall—

1 “(1) inform the individual of the general pur-
 2 pose for which the number will be used; the types of
 3 persons to whom the number may be available; and
 4 the scope of transactions permitted by the consent;
 5 and

6 “(2) obtain the affirmatively expressed consent
 7 (electronically or in writing) of the individual.

8 “(f) EXCEPTIONS.—

9 “(1) IN GENERAL.—Except as provided in sub-
 10 section (d), nothing in this section shall be construed
 11 to prohibit or limit the display, sale, or purchase of
 12 a social security number—

13 “(A) permitted, required, or excepted, ex-
 14 pressly or by implication, under section
 15 205(e)(2), 1124A(a)(3), or 1141(e) of the So-
 16 cial Security Act (42 U.S.C. 405(e)(2), 1320a-
 17 3a(a)(3), and 1320b-11(e)); section 7(a)(2) of
 18 the Privacy Act of 1974 (5 U.S.C. 552a note);
 19 section 6109(d) of the Internal Revenue Code
 20 of 1986, or section 6(b)(1) of the Professional
 21 Boxing Safety Act of 1996 (15 U.S.C.
 22 6305(b)(1));

23 “(B) for a public health purpose, including
 24 the protection of the health or safety of an indi-
 25 vidual in an emergency situation;

1 “(C) for a national security purpose;

2 “(D) for a law enforcement purpose, in-
3 cluding the investigation of fraud, as required
4 under subchapter H of chapter 53 of title 31,
5 United States Code, and chapter 2 of title I of
6 Public Law 91-508 (12 U.S.C. 1951-1959),
7 and the enforcement of a child support obliga-
8 tion;

9 “(E) if the display, sale, or purchase of the
10 number is for a business-to-business use, in-
11 cluding, but not limited to—

12 “(i) the prevention of fraud (including
13 fraud in protecting an employee’s right to
14 employment benefits);

15 “(ii) the facilitation of credit checks
16 or the facilitation of background checks of
17 employees, prospective employees, and vol-
18 unteers;

19 “(iii) compliance with any require-
20 ment related to the social security program
21 established under title II of the Social Se-
22 curity Act (42 U.S.C. 401 et seq.); or

23 “(iv) the retrieval of other information
24 from, or by, other businesses, commercial

1 enterprises, or private nonprofit organiza-
2 tions,
3 except that, nothing in this subparagraph shall
4 be construed as permitting a professional or
5 commercial user to display or sell a social secu-
6 rity number to the general public;

7 “(F) if the transfer of such a number is
8 part of a data matching program under the
9 Computer Matching and Privacy Protection Act
10 of 1988 (5 U.S.C. 552a note) or any similar
11 computer data matching program involving a
12 Federal, State, or local agency; or

13 “(G) if such number is required to be sub-
14 mitted as part of the process for applying for
15 any type of Federal, State, or local government
16 benefit or program.

17 “(g) CIVIL ACTION IN UNITED STATES DISTRICT
18 COURT; DAMAGES; ATTORNEY’S FEES AND COSTS.—

19 “(1) IN GENERAL.—Any individual aggrieved
20 by any act of any person in violation of this section
21 may bring a civil action in a United States district
22 court to recover—

23 “(A) such preliminary and equitable relief
24 as the court determines to be appropriate; and

25 “(B) the greater of—

1 “(i) actual damages;
2 “(ii) liquidated damages of \$2,500; or
3 “(iii) in the case of a violation that
4 was willful and resulted in profit or mone-
5 tary gain, liquidated damages of \$10,000.

6 “(2) STATUTE OF LIMITATIONS.—No action
7 may be commenced under this subsection more than
8 3 years after the date on which the violation was or
9 should reasonably have been discovered by the ag-
10 grieved individual.

11 “(3) NONEXCLUSIVE REMEDY.—The remedy
12 provided under this subsection shall be in addition to
13 any other remedy available to the individual.

14 “(h) CIVIL PENALTIES.—

15 “(1) IN GENERAL.—Any person who the Attor-
16 ney General determines has violated this section
17 shall be subject, in addition to any other penalties
18 that may be prescribed by law—

19 “(A) to a civil penalty of not more than
20 \$5,000 for each such violation; and

21 “(B) to a civil penalty of not more than
22 \$50,000, if the violations have occurred with
23 such frequency as to constitute a general busi-
24 ness practice.

1 “(2) DETERMINATION OF VIOLATIONS.—Any
 2 willful violation committed contemporaneously with
 3 respect to the social security numbers of 2 or more
 4 individuals by means of mail, telecommunication, or
 5 otherwise, shall be treated as a separate violation
 6 with respect to each such individual.

7 “(3) ENFORCEMENT PROCEDURES.—The provi-
 8 sions of section 1128A of the Social Security Act
 9 (42 U.S.C. 1320a-7a), other than subsections (a),
 10 (b), (f), (h), (i), (j), (m), and (n) and the first sen-
 11 tence of subsection (e) of such section, and the pro-
 12 visions of subsections (d) and (e) of section 205 of
 13 such Act (42 U.S.C. 405) shall apply to a civil pen-
 14 alty under this subsection in the same manner as
 15 such provisions apply to a penalty or proceeding
 16 under section 1128A(a) of such Act (42 U.S.C.
 17 1320a-7a(a)), except that, for purposes of this para-
 18 graph, any reference in section 1128A of such Act
 19 (42 U.S.C. 1320a-7a) to the Secretary shall be
 20 deemed to be a reference to the Attorney General.”.

21 “(2) CONFORMING AMENDMENT.—The chapter
 22 analysis for chapter 47 of title 18, United States
 23 Code, is amended by inserting after the item relating
 24 to section 1028 the following:

“1028A. Prohibition of the display, sale, or purchase of social security num-
 bers.”.

1 (b) CRIMINAL SANCTIONS.—Section 208(a) of the
2 Social Security Act (42 U.S.C. 408(a)) is amended—

3 (1) in paragraph (8), by inserting “or” after
4 the semicolon; and

5 (2) by inserting after paragraph (8) the fol-
6 lowing new paragraphs:

7 “(9) except as provided in paragraph (5) of sec-
8 tion 1028A(a) of title 18, United States Code, know-
9 ingly and willfully displays, sells, or purchases (as
10 those terms are defined in paragraph (1) of such
11 section) any individual’s social security number (as
12 defined in such paragraph) without the affirmatively
13 expressed consent of that individual after having met
14 the prerequisites for consent under paragraph (4) of
15 such section, electronically or in writing, with re-
16 spect to that individual; or

17 “(10) obtains any individual’s social security
18 number for the purpose of locating or identifying the
19 individual with the intent to injure or to harm that
20 individual, or to use the identity of that individual
21 for an illegal purpose;”.

22 (c) EFFECTIVE DATE.—Section 1028A of title 18,
23 United States Code (as added by subsection (a)), and sec-
24 tion 208 of the Social Security Act (42 U.S.C. 408) (as
25 amended by subsection (b)) shall take effect 30 days after

1 the date on which the final regulations promulgated under
 2 section 5(b) are published in the Federal Register.

3 **SEC. 4. NO PROHIBITION WITH RESPECT TO PUBLIC**
 4 **RECORDS.**

5 (a) PUBLIC RECORDS EXCEPTION.—

6 (1) IN GENERAL.—Chapter 47 of title 18,
 7 United States Code (as amended by section 3(a)(1)),
 8 is amended by inserting after section 1028A the fol-
 9 lowing:

10 **“§ 1028B. No prohibition of the display, sale, or pur-**
 11 **chase of social security numbers included**
 12 **in public records**

13 “(a) IN GENERAL.—Nothing in section 1028A shall
 14 be construed to prohibit or limit the display, sale, or pur-
 15 chase of any public record which includes a social security
 16 number that—

17 “(1) is incidentally included in a public record,
 18 as defined in subsection (d);

19 “(2) is intended to be purchased, sold, or dis-
 20 played pursuant to an exception contained in section
 21 1028A(f);

22 “(3) is intended to be purchased, sold, or dis-
 23 played pursuant to the consent provisions of sub-
 24 sections (b), (c), and (e) of section 1028A; or

1 “(4) includes a redaction of the nonincidental
2 occurrences of the social security numbers when sold
3 or displayed to members of the general public.

4 “(b) AGENCY REQUIREMENTS.—Each agency in pos-
5 session of documents that contain social security numbers
6 which are nonincidental, shall, with respect to such
7 documents—

8 “(1) ensure that access to such numbers is re-
9 stricted to persons who may obtain them in accord-
10 ance with applicable law;

11 “(2) require an individual who is not exempt
12 under section 1028A(f) to provide the social security
13 number of the person who is the subject of the docu-
14 ment before making such document available; or

15 “(3) redact the social security number from the
16 document prior to providing a copy of the requested
17 document to an individual who is not exempt under
18 section 1028A(f) and who is unable to provide the
19 social security number of the person who is the sub-
20 ject of the document.

21 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion shall be used as a basis for permitting or requiring
23 a State or local government entity or other repository of
24 public documents to expand or to limit access to docu-

1 ments containing social security numbers to entities cov-
 2 ered by the exception in section 1028A(f).

3 “(d) DEFINITIONS.—In this section:

4 “(1) INCIDENTAL.—The term ‘incidental’
 5 means that the social security number is not rou-
 6 tinely displayed in a consistent and predictable man-
 7 ner on the public record by a government entity,
 8 such as on the face of a document.

9 “(2) PUBLIC RECORD.—The term ‘public
 10 record’ means any item, collection, or grouping of in-
 11 formation about an individual that is maintained by
 12 a Federal, State, or local government entity and that
 13 is made available to the public.”.

14 (2) CONFORMING AMENDMENT.—The chapter
 15 analysis for chapter 47 of title 18, United States
 16 Code (as amended by section 3(a)(2)), is amended
 17 by inserting after the item relating to section 1028A
 18 the following:

“1028B. No prohibition of the display, sale, or purchase of social security num-
 bers included in public records.”.

19 **SEC. 5. RULEMAKING AUTHORITY OF THE ATTORNEY GEN-**
 20 **ERAL.**

21 (a) IN GENERAL.—Except as provided in subsection
 22 (b), the Attorney General may prescribe such rules and
 23 regulations as the Attorney General deems necessary to
 24 carry out the provisions of section 3.

1 (b) ~~BUSINESS-TO-BUSINESS COMMERCIAL DISPLAY,~~
2 ~~SALE, OR PURCHASE RULEMAKING.—~~

3 (1) ~~IN GENERAL.—~~Not later than 1 year after
4 the date of enactment of this Act, the Attorney Gen-
5 eral, in consultation with the Commissioner of Social
6 Security, the Federal Trade Commission, and such
7 other Federal agencies as the Attorney General de-
8 termines appropriate, may conduct such rulemaking
9 procedures in accordance with subchapter II of
10 chapter 5 of title 5, United States Code, as are nec-
11 essary to promulgate regulations to implement and
12 clarify the business-to-business provisions pertaining
13 to section 1028A(f)(1)(E) of title 18, United States
14 Code (as added by section 3(a)(1)). The Attorney
15 General shall consult with other agencies to ensure,
16 where possible, that these provisions are consistent
17 with other privacy laws, including title V of the
18 Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.).

19 (2) ~~FACTORS TO BE CONSIDERED.—~~In promul-
20 gating the regulations required under paragraph (1),
21 the Attorney General shall, at a minimum, consider
22 the following factors:

23 (A) The benefit to a particular business
24 practice and to the general public of the sale or

1 purchase of an individual's social security num-
2 ber.

3 (B) The risk that a particular business
4 practice will promote the use of the social secu-
5 rity number to commit fraud, deception, or
6 crime.

7 (C) The presence of adequate safeguards
8 to prevent the misappropriation of social secu-
9 rity numbers by the general public, while per-
10 mitting internal business uses of such numbers.

11 (D) The implementation of procedures to
12 prevent identity thieves, stalkers, and others
13 with ill intent from posing as legitimate busi-
14 nesses to obtain social security numbers.

15 **SEC. 6. TREATMENT OF SOCIAL SECURITY NUMBERS ON**
16 **GOVERNMENT DOCUMENTS.**

17 (a) PROHIBITION OF USE OF SOCIAL SECURITY AC-
18 COUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY
19 GOVERNMENTAL AGENCIES.—

20 (1) IN GENERAL.—Section 205(e)(2)(C) of the
21 Social Security Act (42 U.S.C. 405(e)(2)(C)) is
22 amended by adding at the end the following new
23 clause:

24 “(x) No Federal, State, or local agency may display
25 the social security account number of any individual, or

1 any derivative of such number, on any check issued for
 2 any payment by the Federal, State, or local agency.”.

3 (2) EFFECTIVE DATE.—The amendment made
 4 by this subsection shall apply with respect to viola-
 5 tions of section 205(e)(2)(C)(x) of the Social Secu-
 6 rity Act (42 U.S.C. 405(e)(2)(C)(x)), as added by
 7 paragraph (1), occurring after the date that is 3
 8 years after the date of enactment of this Act.

9 (b) PROHIBITION OF APPEARANCE OF SOCIAL SECU-
 10 RITY ACCOUNT NUMBERS ON DRIVER’S LICENSES OR
 11 MOTOR VEHICLE REGISTRATION.—

12 (1) IN GENERAL.—Section 205(e)(2)(C)(vi) of
 13 the Social Security Act (42 U.S.C. 405(e)(2)(C)(vi))
 14 is amended—

15 (A) by inserting “(I)” after “(vi)”; and

16 (B) by adding at the end the following new
 17 subclause:

18 “(H)(aa) An agency of a State (or political subdivi-
 19 sion thereof), in the administration of any driver’s license
 20 or motor vehicle registration law within its jurisdiction,
 21 may not disclose the social security account numbers
 22 issued by the Commissioner of Social Security, or any de-
 23 rivative of such numbers, on any driver’s license or motor
 24 vehicle registration or any other document issued by such

1 State (or political subdivision thereof) to an individual for
2 purposes of identification of such individual.

3 “(bb) Nothing in this subclause shall be construed
4 as precluding an agency of a State (or political subdivision
5 thereof), in the administration of any driver’s license or
6 motor vehicle registration law within its jurisdiction, from
7 using a social security account number for an internal use
8 or to link with the database of an agency of another State
9 that is responsible for the administration of any driver’s
10 license or motor vehicle registration law.”

11 (2) EFFECTIVE DATE.—The amendment made
12 by this subsection shall apply with respect to li-
13 censes, registrations, and other documents issued or
14 reissued after the date that is 1 year after the date
15 of enactment of this Act.

16 (c) PROHIBITION OF INMATE ACCESS TO SOCIAL SE-
17 CURITY ACCOUNT NUMBERS.—

18 (1) IN GENERAL.—Section 205(c)(2)(C) of the
19 Social Security Act (42 U.S.C. 405(c)(2)(C)) (as
20 amended by subsection (b)) is amended by adding at
21 the end the following new clause:

22 “(xi) No Federal, State, or local agency may employ,
23 or enter into a contract for the use or employment of, pris-
24 oners in any capacity that would allow such prisoners ac-
25 cess to the social security account numbers of other indi-

1 viduals. For purposes of this clause, the term ‘prisoner’
 2 means an individual confined in a jail, prison, or other
 3 penal institution or correctional facility pursuant to such
 4 individual’s conviction of a criminal offense.”.

5 (2) EFFECTIVE DATE.—The amendment made
 6 by this subsection shall apply with respect to em-
 7 ployment of prisoners, or entry into contract with
 8 prisoners, after the date that is 1 year after the date
 9 of enactment of this Act.

10 **SEC. 7. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL**
 11 **SECURITY NUMBER FOR CONSUMER TRANS-**
 12 **ACTIONS.**

13 (a) IN GENERAL.—Part A of title XI of the Social
 14 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
 15 ing at the end the following new section:

16 **“SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SO-**
 17 **CIAL SECURITY NUMBER FOR CONSUMER**
 18 **TRANSACTIONS.**

19 “(a) IN GENERAL.—A commercial entity may not re-
 20 quire an individual to provide the individual’s social secu-
 21 rity number when purchasing a commercial good or service
 22 or deny an individual the good or service for refusing to
 23 provide that number except—

24 “(1) for any purpose relating to—

1 “(A) obtaining a consumer report for any
2 purpose permitted under the Fair Credit Re-
3 porting Act;

4 “(B) a background check of the individual
5 conducted by a landlord, lessor, employer, vol-
6 untary service agency, or other entity as deter-
7 mined by the Attorney General;

8 “(C) law enforcement; or

9 “(D) a Federal or State law requirement;

10 or

11 “(2) if the social security number is necessary
12 to verify identity and to prevent fraud with respect
13 to the specific transaction requested by the con-
14 sumer and no other form of identification can
15 produce comparable information.

16 “(b) OTHER FORMS OF IDENTIFICATION.—Nothing
17 in this section shall be construed to prohibit a commercial
18 entity from—

19 “(1) requiring an individual to provide 2 forms
20 of identification that do not contain the social secu-
21 rity number of the individual; or

22 “(2) denying an individual a good or service for
23 refusing to provide 2 forms of identification that do
24 not contain such number.

1 “(c) APPLICATION OF CIVIL MONEY PENALTIES.—
2 A violation of this section shall be deemed to be a violation
3 of section 1129(a)(3)(F).

4 “(d) APPLICATION OF CRIMINAL PENALTIES.—A vio-
5 lation of this section shall be deemed to be a violation of
6 section 208(a)(8).”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to requests to provide a social
9 security number made on or after the date of enactment
10 of this Act.

11 **SEC. 8. EXTENSION OF CIVIL MONETARY PENALTIES FOR**
12 **MISUSE OF A SOCIAL SECURITY NUMBER.**

13 (a) TREATMENT OF WITHHOLDING OF MATERIAL
14 FACTS.—

15 (1) CIVIL PENALTIES.—The first sentence of
16 section 1129(a)(1) of the Social Security Act (42
17 U.S.C. 1320a-8(a)(1)) is amended—

18 (A) by striking “who” and inserting
19 “who—”;

20 (B) by striking “makes” and all that fol-
21 lows through “shall be subject to” and inserting
22 the following:

23 “(A) makes, or causes to be made, a statement
24 or representation of a material fact, for use in deter-
25 mining any initial or continuing right to or the

1 amount of monthly insurance benefits under title II
2 or benefits or payments under title VIII or XVI,
3 that the person knows or should know is false or
4 misleading;

5 “(B) makes such a statement or representation
6 for such use with knowing disregard for the truth;
7 or

8 “(C) omits from a statement or representation
9 for such use, or otherwise withholds disclosure of, a
10 fact which the individual knows or should know is
11 material to the determination of any initial or con-
12 tinuing right to or the amount of monthly insurance
13 benefits under title II or benefits or payments under
14 title VIII or XVI and the individual knows, or
15 should know, that the statement or representation
16 with such omission is false or misleading or that the
17 withholding of such disclosure is misleading;

18 shall be subject to”;

19 (C) by inserting “or each receipt of such
20 benefits while withholding disclosure of such
21 fact” after “each such statement or representa-
22 tion”;

23 (D) by inserting “or because of such with-
24 holding of disclosure of a material fact” after

1 “because of such statement or representation”;
2 and

3 (E) by inserting “or such a withholding of
4 disclosure” after “such a statement or rep-
5 resentation”.

6 ~~(2)~~ ADMINISTRATIVE PROCEDURE FOR IMPOS-
7 ING PENALTIES.—The first sentence of section
8 1129A(a) of the Social Security Act (42 U.S.C.
9 1320a-8a(a)) is amended—

10 (A) by striking “who” and inserting
11 “who—”; and

12 (B) by striking “makes” and all that fol-
13 lows through “shall be subject to” and inserting
14 the following new paragraphs:

15 “(1) makes, or causes to be made, a statement
16 or representation of a material fact, for use in deter-
17 mining any initial or continuing right to or the
18 amount of monthly insurance benefits under title II
19 or benefits or payments under title VIII or XVI,
20 that the person knows or should know is false or
21 misleading;

22 “(2) makes such a statement or representation
23 for such use with knowing disregard for the truth;
24 or

1 ~~“(3)~~ omits from a statement or representation
 2 for such use, or otherwise withholds disclosure of, a
 3 fact which the individual knows or should know is
 4 material to the determination of any initial or con-
 5 tinuing right to or the amount of monthly insurance
 6 benefits under title II or benefits or payments under
 7 title VIII or XVI and the individual knows, or
 8 should know, that the statement or representation
 9 with such omission is false or misleading or that the
 10 withholding of such disclosure is misleading,
 11 shall be subject to”.

12 (b) APPLICATION OF CIVIL MONEY PENALTIES TO
 13 ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a)
 14 of the Social Security Act (42 U.S.C. 1320a-8(a)), as
 15 amended by subsection (a)(1), is amended—

16 (1) by redesignating paragraph (2) as para-
 17 graph (4);

18 (2) by redesignating the last sentence of para-
 19 graph (1) as paragraph (2) and inserting such para-
 20 graph after paragraph (1); and

21 (3) by inserting after paragraph (2) (as so re-
 22 designated) the following new paragraph:

23 ~~“(3)~~ Any person (including an organization, agency,
 24 or other entity) who—

1 “(A) uses a social security account number that
2 such person knows or should know has been as-
3 signed by the Commissioner of Social Security (in an
4 exercise of authority under section 205(e)(2) to es-
5 tablish and maintain records) on the basis of false
6 information furnished to the Commissioner by any
7 person;

8 “(B) falsely represents a number to be the so-
9 cial security account number assigned by the Com-
10 missioner of Social Security to any individual, when
11 such person knows or should know that such number
12 is not the social security account number assigned
13 by the Commissioner to such individual;

14 “(C) knowingly alters a social security card
15 issued by the Commissioner of Social Security, or
16 possesses such a card with intent to alter it;

17 “(D) knowingly displays, sells, or purchases a
18 card that is, or purports to be, a card issued by the
19 Commissioner of Social Security, or possesses such
20 a card with intent to display, purchase, or sell it;

21 “(E) counterfeits a social security card, or pos-
22 sesses a counterfeit social security card with intent
23 to display, sell, or purchase it;

24 “(F) discloses, uses, compels the disclosure of,
25 or knowingly displays, sells, or purchases the social

1 security account number of any person in violation
2 of the laws of the United States;

3 “(G) with intent to deceive the Commissioner of
4 Social Security as to such person’s true identity (or
5 the true identity of any other person) furnishes or
6 causes to be furnished false information to the Com-
7 missioner with respect to any information required
8 by the Commissioner in connection with the estab-
9 lishment and maintenance of the records provided
10 for in section 205(e)(2);

11 “(H) offers, for a fee, to acquire for any indi-
12 vidual, or to assist in acquiring for any individual,
13 an additional social security account number or a
14 number which purports to be a social security ac-
15 count number; or

16 “(I) being an officer or employee of a Federal,
17 State, or local agency in possession of any individ-
18 ual’s social security account number, willfully acts or
19 fails to act so as to cause a violation by such agency
20 of clause (vi)(II) or (x) of section 205(e)(2)(C);

21 shall be subject to, in addition to any other penalties that
22 may be prescribed by law, a civil money penalty of not
23 more than \$5,000 for each violation. Such person shall
24 also be subject to an assessment, in lieu of damages sus-
25 tained by the United States resulting from such violation;

1 of not more than twice the amount of any benefits or pay-
2 ments paid as a result of such violation.”.

3 (c) CLARIFICATION OF TREATMENT OF RECOVERED
4 AMOUNTS.—Section 1129(c)(2)(B) of the Social Security
5 Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking
6 “In the case of amounts recovered arising out of a deter-
7 mination relating to title VIII or XVI,” and inserting “In
8 the case of any other amounts recovered under this sec-
9 tion,”.

10 (d) CONFORMING AMENDMENTS.—

11 (1) Section 1129(b)(3)(A) of the Social Secu-
12 rity Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended
13 by striking “charging fraud or false statements”.

14 (2) Section 1129(c)(1) of the Social Security
15 Act (42 U.S.C. 1320a–8(c)(1)) is amended by strik-
16 ing “and representations” and inserting “, represen-
17 tations, or actions”.

18 (3) Section 1129(c)(1)(A) of the Social Security
19 Act (42 U.S.C. 1320a–8(c)(1)(A)) is amended by
20 striking “statement or representation referred to in
21 subsection (a) was made” and inserting “violation
22 occurred”.

23 (e) EFFECTIVE DATES.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), the amendments made by this section

1 shall apply with respect to violations of sections
 2 1129 and 1129A of the Social Security Act (42
 3 U.S.C. 1320–8 and 1320a–8a), as amended by this
 4 section, committed after the date of enactment of
 5 this Act.

6 (2) VIOLATIONS BY GOVERNMENT AGENTS IN
 7 POSSESSION OF SOCIAL SECURITY NUMBERS.—Sec-
 8 tion 1129(a)(3)(I) of the Social Security Act (42
 9 U.S.C. 1320a–8(a)(3)(I)), as added by subsection
 10 (b), shall apply with respect to violations of that sec-
 11 tion occurring on or after the effective date under
 12 section 3(e).

13 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

14 (a) *SHORT TITLE.*—This Act may be cited as the “So-
 15 cial Security Number Misuse Prevention Act of 2002”.

16 (b) *TABLE OF CONTENTS.*—The table of contents of this
 17 Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Prohibition of the display, sale, or purchase of social security numbers.

Sec. 4. No prohibition with respect to public records.

Sec. 5. Rulemaking authority of the Attorney General.

Sec. 6. Treatment of social security numbers on government documents.

Sec. 7. Limits on personal disclosure of a social security number for consumer transactions.

Sec. 8. Extension of civil monetary penalties for misuse of a social security number.

Sec. 9. Truncation of credit card account numbers.

18 **SEC. 2. FINDINGS.**

19 Congress makes the following findings:

1 (1) *The inappropriate display, sale, or purchase*
2 *of social security numbers has contributed to a grow-*
3 *ing range of illegal activities, including fraud, iden-*
4 *tity theft, and, in some cases, stalking and other vio-*
5 *lent crimes.*

6 (2) *While financial institutions, health care pro-*
7 *viders, and other entities have often used social secu-*
8 *rity numbers to confirm the identity of an individual,*
9 *the general display to the public, sale, or purchase of*
10 *these numbers has been used to commit crimes, and*
11 *also can result in serious invasions of individual pri-*
12 *vacv.*

13 (3) *The Federal Government requires virtually*
14 *every individual in the United States to obtain and*
15 *maintain a social security number in order to pay*
16 *taxes, to qualify for social security benefits, or to seek*
17 *employment. An unintended consequence of these re-*
18 *quirements is that social security numbers have be-*
19 *come tools that can be used to facilitate crime, fraud,*
20 *and invasions of the privacy of the individuals to*
21 *whom the numbers are assigned. Because the Federal*
22 *Government created and maintains this system, and*
23 *because the Federal Government does not permit indi-*
24 *viduals to exempt themselves from those requirements,*

1 *it is appropriate for the Federal Government to take*
 2 *steps to stem the abuse of this system.*

3 *(4) A social security number does not contain,*
 4 *reflect, or convey any publicly significant information*
 5 *or concern any public issue. The display, sale, or pur-*
 6 *chase of such numbers in no way facilitates uninhib-*
 7 *ited, robust, and wide-open public debate, and restric-*
 8 *tions on such display, sale, or purchase would not af-*
 9 *fect public debate.*

10 *(5) No one should seek to profit from the display,*
 11 *sale, or purchase of social security numbers in cir-*
 12 *cumstances that create a substantial risk of physical,*
 13 *emotional, or financial harm to the individuals to*
 14 *whom those numbers are assigned.*

15 *(6) Consequently, this Act offers each individual*
 16 *that has been assigned a social security number nec-*
 17 *essary protection from the display, sale, and purchase*
 18 *of that number in any circumstance that might facili-*
 19 *tate unlawful conduct.*

20 **SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PUR-**
 21 **CHASE OF SOCIAL SECURITY NUMBERS.**

22 *(a) PROHIBITION.—*

23 *(1) IN GENERAL.—Chapter 47 of title 18, United*
 24 *States Code, is amended by inserting after section*
 25 *1028 the following:*

1 **“§ 1028A. Prohibition of the display, sale, or purchase**
2 **of social security numbers**

3 “(a) *DEFINITIONS.—In this section:*

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

8 “(2) *PERSON.—The term ‘person’ means any in-*
9 *dividual, partnership, corporation, trust, estate, coop-*
10 *erative, association, or any other entity.*

11 “(3) *PURCHASE.—The term ‘purchase’ means*
12 *providing directly or indirectly, anything of value in*
13 *exchange for a social security number.*

14 “(4) *SALE.—The term ‘sale’ means obtaining,*
15 *directly or indirectly, anything of value in exchange*
16 *for a social security number.*

17 “(5) *STATE.—The term ‘State’ means any State*
18 *of the United States, the District of Columbia, Puerto*
19 *Rico, the Northern Mariana Islands, the United*
20 *States Virgin Islands, Guam, American Samoa, and*
21 *any territory or possession of the United States.*

22 “(b) *LIMITATION ON DISPLAY.—Except as provided in*
23 *section 1028B, no person may display any individual’s so-*
24 *cial security number to the general public without the af-*
25 *firmatively expressed consent of the individual.*

1 “(c) *LIMITATION ON SALE OR PURCHASE.*—*Except as*
2 *otherwise provided in this section, no person may sell or*
3 *purchase any individual’s social security number without*
4 *the affirmatively expressed consent of the individual.*

5 “(d) *PROHIBITION OF WRONGFUL USE AS PERSONAL*
6 *IDENTIFICATION NUMBER.*—*No person may obtain any in-*
7 *dividual’s social security number for purposes of locating*
8 *or identifying an individual with the intent to physically*
9 *injure, harm, or use the identity of the individual for any*
10 *illegal purpose.*

11 “(e) *PREREQUISITES FOR CONSENT.*—*In order for*
12 *consent to exist under subsection (b) or (c), the person dis-*
13 *playing or seeking to display, selling or attempting to sell,*
14 *or purchasing or attempting to purchase, an individual’s*
15 *social security number shall—*

16 “(1) *inform the individual of the general purpose*
17 *for which the number will be used, the types of per-*
18 *sons to whom the number may be available, and the*
19 *scope of transactions permitted by the consent; and*

20 “(2) *obtain the affirmatively expressed consent*
21 *(electronically or in writing) of the individual.*

22 “(f) *EXCEPTIONS.*—*Except as provided in subsection*
23 *(d), nothing in this section shall be construed to prohibit*
24 *or limit the display, sale, or purchase of a social security*
25 *number—*

1 “(1) permitted, required, or excepted, expressly
2 or by implication, under section 205(c)(2),
3 1124A(a)(3), or 1141(c) of the Social Security Act
4 (42 U.S.C. 405(c)(2), 1320a–3a(a)(3), or 1320b–
5 11(c)), section 7(a)(2) of the Privacy Act of 1974 (5
6 U.S.C. 552a note), section 6109(d) of the Internal
7 Revenue Code of 1986, or section 6(b)(1) of the Profes-
8 sional Boxing Safety Act of 1996 (15 U.S.C.
9 6305(b)(1));

10 “(2) for a public health purpose, including the
11 protection of the health or safety of an individual in
12 an emergency situation;

13 “(3) for a national security purpose;

14 “(4) for a law enforcement purpose, including
15 the investigation of fraud, as required under sub-
16 chapter II of chapter 53 of title 31, United States
17 Code, and chapter 2 of title I of Public Law 91–508
18 (12 U.S.C. 1951–1959), and the enforcement of a
19 child support obligation;

20 “(5) if the display, sale, or purchase of the num-
21 ber is for a business-to-business use or business-to-gov-
22 ernment use, including, but not limited to—

23 “(A) the prevention of fraud (including
24 fraud in protecting an employee’s right to em-
25 ployment benefits);

1 “(B) the facilitation of credit checks or the
2 facilitation of background checks of employees,
3 prospective employees, and volunteers;

4 “(C) compliance with any requirement re-
5 lated to the social security program established
6 under title II of the Social Security Act (42
7 U.S.C. 401 et seq.);

8 “(D) the retrieval of other information from
9 other businesses, commercial enterprises, govern-
10 ment entities, or private nonprofit organizations;
11 or

12 “(E) the transmission of the number is inci-
13 dental to, and in the course of, the sale, lease,
14 franchising, or merger of all, or a portion of, a
15 business;

16 *except that, nothing in this paragraph shall be con-*
17 *strued as permitting a professional or commercial*
18 *user to display or sell a social security number to the*
19 *general public;*

20 “(6) if the transfer of such a number is part of
21 a data matching program under the Computer
22 Matching and Privacy Protection Act of 1988 (5
23 U.S.C. 552a note) or any similar computer data
24 matching program involving a Federal, State, or local
25 agency; or

1 “(7) if such number is required to be submitted
2 as part of the process for applying for any type of
3 Federal, State, or local government benefit or pro-
4 gram.

5 “(g) CIVIL ACTION IN STATE COURTS.—

6 “(1) IN GENERAL.—Any individual aggrieved by
7 an act of any person in violation of this section may,
8 if otherwise permitted by the laws or rules of the
9 court of a State, bring in an appropriate court of
10 that State—

11 “(A) an action to enjoin such violation;

12 “(B) an action to recover for actual mone-
13 tary loss from such a violation, or to receive up
14 to \$500 in damages for each such violation,
15 whichever is greater; or

16 “(C) both such actions.

17 “*It shall be an affirmative defense in any action*
18 *brought under this paragraph that the defendant has*
19 *established and implemented, with due care, reason-*
20 *able practices and procedures to effectively prevent*
21 *violations of the regulations prescribed under this*
22 *subsection. If the court finds that the defendant will-*
23 *fully or knowingly violated the regulations prescribed*
24 *under this subsection, the court may, in its discretion,*
25 *increase the amount of the award to an amount equal*

1 to not more than 3 times the amount available under
2 subparagraph (B) of this paragraph.

3 “(2) *STATUTE OF LIMITATIONS.*—An action may
4 be commenced under this subsection not later than the
5 earlier of—

6 “(A) 5 years after the date on which the al-
7 leged violation occurred; or

8 “(B) 3 years after the date on which the al-
9 leged violation was or should have been reason-
10 ably discovered by the aggrieved individual.

11 “(3) *NONEXCLUSIVE REMEDY.*—The remedy pro-
12 vided under this subsection shall be in addition to
13 any other remedy available to the individual.

14 “(h) *CIVIL PENALTIES.*—

15 “(1) *IN GENERAL.*—Any person who the Attor-
16 ney General determines has violated this section shall
17 be subject, in addition to any other penalties that
18 may be prescribed by law—

19 “(A) to a civil penalty of not more than
20 \$5,000 for each such violation; and

21 “(B) to a civil penalty of not more than
22 \$50,000, if the violations have occurred with
23 such frequency as to constitute a general business
24 practice.

1 “(2) *DETERMINATION OF VIOLATIONS.*—*Any*
2 *willful violation committed contemporaneously with*
3 *respect to the social security numbers of 2 or more in-*
4 *dividuals by means of mail, telecommunication, or*
5 *otherwise, shall be treated as a separate violation*
6 *with respect to each such individual.*

7 “(3) *ENFORCEMENT PROCEDURES.*—*The provi-*
8 *sions of section 1128A of the Social Security Act (42*
9 *U.S.C. 1320a–7a), other than subsections (a), (b), (f),*
10 *(h), (i), (j), (m), and (n) and the first sentence of sub-*
11 *section (c) of such section, and the provisions of sub-*
12 *sections (d) and (e) of section 205 of such Act (42*
13 *U.S.C. 405) shall apply to a civil penalty under this*
14 *subsection in the same manner as such provisions*
15 *apply to a penalty or proceeding under section*
16 *1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except*
17 *that, for purposes of this paragraph, any reference in*
18 *section 1128A of such Act (42 U.S.C. 1320a–7a) to*
19 *the Secretary shall be deemed to be a reference to the*
20 *Attorney General.”.*

21 “(2) *CONFORMING AMENDMENT.*—*The chapter*
22 *analysis for chapter 47 of title 18, United States*
23 *Code, is amended by inserting after the item relating*
24 *to section 1028 the following:*

“1028A. *Prohibition of the display, sale, or purchase of social security numbers.*”.

1 (b) *CRIMINAL SANCTIONS.*—Section 208(a) of the So-
2 cial Security Act (42 U.S.C. 408(a)) is amended—

3 (1) in paragraph (8), by inserting “or” after the
4 semicolon; and

5 (2) by inserting after paragraph (8) the fol-
6 lowing new paragraphs:

7 “(9) except as provided in section 1028A(f) of
8 title 18, United States Code, knowingly and willfully
9 displays, sells, or purchases (as those terms are de-
10 fined in section 1028A(a) of title 18, United States
11 Code) any individual’s social security account num-
12 ber without having met the prerequisites for consent
13 under section 1028A(e) of title 18, United States
14 Code; or

15 “(10) obtains any individual’s social security
16 number for the purpose of locating or identifying the
17 individual with the intent to injure or to harm that
18 individual, or to use the identity of that individual
19 for an illegal purpose;”.

20 (c) *EFFECTIVE DATE.*—Section 1028A of title 18,
21 United States Code (as added by subsection (a)), and the
22 amendments under section (b) to section 208(a) of the So-
23 cial Security Act (42 U.S.C. 408(a)) shall take effect 30
24 days after the date on which the final regulations promul-

1 gated under section 5(b) are published in the Federal Reg-
 2 ister.

3 **SEC. 4. NO PROHIBITION WITH RESPECT TO PUBLIC**
 4 **RECORDS.**

5 (a) *PUBLIC RECORDS EXCEPTION.*—Chapter 47 of
 6 title 18, United States Code (as amended by section
 7 3(a)(1)), is amended by inserting after section 1028A the
 8 following:

9 **“§ 1028B. No prohibition of the display, sale, or pur-**
 10 **chase of social security numbers included**
 11 **in public records**

12 “(a) *IN GENERAL.*—Nothing in section 1028A shall
 13 prohibit or limit the display, sale, or purchase of any public
 14 record, which contains a social security number, that—

15 “(1) is not identified in subsection (b);

16 “(2) is identified in subsection (b), provided that
 17 the agency in possession of such public record com-
 18 plies with the requirements under subsection (c);

19 “(3) is produced on or before the effective date of
 20 this section; or

21 “(4) is intended to be purchased, sold, or dis-
 22 played pursuant to—

23 “(A) an exception under section 1028A(f);

24 or

1 “(B) the consent provisions under sub-
2 sections (b), (c), and (e) of section 1028A.

3 “(b) LIST OF PUBLIC RECORDS.—

4 “(1) IN GENERAL.—Each agency shall comply
5 with the requirements under subsection (c) with re-
6 spect to—

7 “(A) death certificates;

8 “(B) professional and occupational licenses;

9 “(C) property settlement documents;

10 “(D) documents relating to birth certifi-
11 cates;

12 “(E) land ownership records;

13 “(F) marriage permits and licenses;

14 “(G) documents related to bankruptcy;

15 “(H) court judgments;

16 “(I) child support documents;

17 “(J) divorce petitions and decrees; and

18 “(K) tax liens.

19 “(2) CONVERSION OF PAPER RECORDS INTO
20 ELECTRONIC RECORDS.—Any record in paragraph (1)
21 that is first made available online to the general pub-
22 lic after the effective date of this section shall be treat-
23 ed as a newly created record for the purposes of this
24 section and shall comply with the requirements of
25 subsection (c).

1 “(c) *AGENCY REQUIREMENTS.*—Each agency in pos-
2 session of a public record identified in subsection (b) that
3 contains a social security number, shall—

4 “(1) restrict access to the social security number
5 contained on the public record to those persons who
6 are entitled to such access in accordance with appli-
7 cable law;

8 “(2) require any individual who is not exempt
9 under section 1028A(f) to provide the social security
10 number of the person who is the subject of the public
11 record before making such public record available;
12 and

13 “(3) redact the social security number from the
14 document prior to providing a copy of the requested
15 document to any individual who—

16 “(A) is not exempt under section 1028A(f);
17 and

18 “(B) is unable to provide the social security
19 number of the person who is the subject of the
20 public record.”.

21 (b) *CONFORMING AMENDMENT.*—The chapter analysis
22 for chapter 47 of title 18, United States Code (as amended
23 by section 3(a)(2)), is amended by inserting after the item
24 relating to section 1028A the following:

“1028B. No prohibition of the display, sale, or purchase of social security numbers
included in public records.”.

1 (c) *STUDY; REPORT.*—

2 (1) *IN GENERAL.*—*The Attorney General shall*
3 *conduct a study and prepare a report on the feasi-*
4 *bility, advisability, and cost of imposing limitations*
5 *or prohibitions on the use of social security numbers*
6 *in public records. The report shall include a detailed*
7 *description of the activities and results of the study*
8 *and such recommendations for legislative action as*
9 *the Attorney General considers appropriate.*

10 (2) *ISSUES TO BE STUDIED.*—*The study con-*
11 *ducted under paragraph (1) shall include—*

12 (A) *a review of the uses of social security*
13 *numbers in all types of public records;*

14 (B) *a review of the manner in which all*
15 *types of public records are stored (both electroni-*
16 *cally and on paper);*

17 (C) *an analysis of the impact and costs of*
18 *redacting social security numbers on all types of*
19 *public records, including each of the types listed*
20 *in section 1028B(b)(1) of title 18, United States*
21 *Code (as added by this Act);*

22 (D) *a survey of the technologies available to*
23 *facilitate cost-efficient redaction of all types of*
24 *public records prior to the public display or*
25 *availability of such documents; and*

1 (E) an analysis of the extent to which the
2 public's access to public records containing social
3 security numbers facilitates identity fraud.

4 (3) *REPORT.*—The Attorney General shall report
5 findings under this subsection to Congress not later
6 than 1 year after the date of enactment of this Act.

7 (d) *EFFECTIVE DATE.*—The prohibition with respect
8 to public records shall not take effect until 3 years after
9 the date of enactment of this Act.

10 **SEC. 5. RULEMAKING AUTHORITY OF THE ATTORNEY GEN-**
11 **ERAL.**

12 (a) *IN GENERAL.*—Except as provided in subsection
13 (b), the Attorney General may prescribe such rules and reg-
14 ulations as the Attorney General deems necessary to carry
15 out the provisions of section 3.

16 (b) *BUSINESS-TO-BUSINESS AND BUSINESS-TO-GOV-*
17 *ERNMENT COMMERCIAL DISPLAY, SALE, OR PURCHASE*
18 *RULEMAKING.*—

19 (1) *IN GENERAL.*—Not later than 1 year after
20 the date of enactment of this Act, the Attorney Gen-
21 eral, in consultation with the Commissioner of Social
22 Security, the Federal Trade Commission, and such
23 other Federal agencies as the Attorney General deter-
24 mines appropriate, may conduct such rulemaking
25 procedures in accordance with subchapter II of chap-

1 *ter 5 of title 5, United States Code, as are necessary*
2 *to promulgate regulations to implement and clarify*
3 *the business-to-business and business-to-government*
4 *provisions pertaining to section 1028A(f)(5) of title*
5 *18, United States Code (as added by this Act). The*
6 *Attorney General shall ensure that these provisions*
7 *are consistent with the authorities of government enti-*
8 *ties and legitimate businesses as set forth in section*
9 *1028A(f)(5) of title 18, United States Code (as added*
10 *by this Act), and shall ensure that, where possible,*
11 *these provisions are consistent with other privacy*
12 *laws, including title V of the Gramm-Leach-Bliley*
13 *Act (15 U.S.C. 6801 et seq.).*

14 (2) *FACTORS TO BE CONSIDERED.—In promul-*
15 *gating the regulations required under paragraph (1),*
16 *the Attorney General shall, at a minimum, consider*
17 *the following factors:*

18 (A) *The benefit to a particular business*
19 *practice and to the general public of the sale or*
20 *purchase of an individual's social security num-*
21 *ber.*

22 (B) *The financial and other costs that busi-*
23 *nesses of 50 or fewer employees may incur to*
24 *comply with the Act's prohibitions on the dis-*

1 *play, sale, and purchase of social security num-*
2 *bers.*

3 *(C) The risk that a particular business*
4 *practice will promote the use of the social secu-*
5 *rity number to commit fraud, deception, or*
6 *crime.*

7 *(D) The presence of adequate safeguards to*
8 *prevent the misappropriation of social security*
9 *numbers by the general public, while permitting*
10 *internal business uses of such numbers.*

11 *(E) The implementation of procedures to*
12 *prevent identity thieves, stalkers, and others with*
13 *ill intent from posing as legitimate businesses to*
14 *obtain social security numbers.*

15 **SEC. 6. TREATMENT OF SOCIAL SECURITY NUMBERS ON**
16 **GOVERNMENT DOCUMENTS.**

17 *(a) PROHIBITION OF USE OF SOCIAL SECURITY AC-*
18 *COUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY*
19 *GOVERNMENTAL AGENCIES.—*

20 *(1) IN GENERAL.—Section 205(c)(2)(C) of the*
21 *Social Security Act (42 U.S.C. 405(c)(2)(C)) is*
22 *amended by adding at the end the following new*
23 *clause:*

24 *“(x) No Federal, State, or local agency may display*
25 *the social security account number of any individual, or*

1 *any derivative of such number, on any check issued for any*
 2 *payment by the Federal, State, or local agency.”.*

3 (2) *EFFECTIVE DATE.*—*The amendment made by*
 4 *this subsection shall apply with respect to violations*
 5 *of section 205(c)(2)(C)(x) of the Social Security Act*
 6 *(42 U.S.C. 405(c)(2)(C)(x)), as added by paragraph*
 7 *(1), occurring after the date that is 3 years after the*
 8 *date of enactment of this Act.*

9 (b) *PROHIBITION OF APPEARANCE OF SOCIAL SECUR-*
 10 *ITY ACCOUNT NUMBERS ON DRIVER’S LICENSES OR*
 11 *MOTOR VEHICLE REGISTRATION.*—

12 (1) *IN GENERAL.*—*Section 205(c)(2)(C)(vi) of the*
 13 *Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is*
 14 *amended—*

15 (A) *by inserting “(I)” after “(vi)”;* and

16 (B) *by adding at the end the following new*
 17 *subclause:*

18 “(II)(aa) *An agency of a State (or political subdivi-*
 19 *sion thereof), in the administration of any driver’s license*
 20 *or motor vehicle registration law within its jurisdiction,*
 21 *may not display the social security account numbers issued*
 22 *by the Commissioner of Social Security, or any derivative*
 23 *of such numbers, on the face of any driver’s license or motor*
 24 *vehicle registration or any other document issued by such*

1 *State (or political subdivision thereof) to an individual for*
2 *purposes of identification of such individual.*

3 “(bb) *Nothing in this subclause shall be construed as*
4 *precluding an agency of a State (or political subdivision*
5 *thereof), in the administration of any driver’s license or*
6 *motor vehicle registration law within its jurisdiction, from*
7 *using a social security account number for an internal use*
8 *or to link with the database of an agency of another State*
9 *that is responsible for the administration of any driver’s*
10 *license or motor vehicle registration law.”.*

11 (2) *EFFECTIVE DATE.—The amendment made by*
12 *this subsection shall apply with respect to licenses,*
13 *registrations, and other documents issued or reissued*
14 *after the date that is 1 year after the date of enact-*
15 *ment of this Act.*

16 (c) *PROHIBITION OF INMATE ACCESS TO SOCIAL SE-*
17 *CURITY ACCOUNT NUMBERS.—*

18 (1) *IN GENERAL.—Section 205(c)(2)(C) of the*
19 *Social Security Act (42 U.S.C. 405(c)(2)(C)) (as*
20 *amended by subsection (b)) is amended by adding at*
21 *the end the following new clause:*

22 “(xi) *No Federal, State, or local agency may employ,*
23 *or enter into a contract for the use or employment of, pris-*
24 *oners in any capacity that would allow such prisoners ac-*
25 *cess to the social security account numbers of other individ-*

1 uals. For purposes of this clause, the term ‘prisoner’ means
 2 an individual confined in a jail, prison, or other penal in-
 3 stitution or correctional facility pursuant to such individ-
 4 ual’s conviction of a criminal offense.”.

5 (2) *EFFECTIVE DATE.*—The amendment made by
 6 this subsection shall apply with respect to employ-
 7 ment of prisoners, or entry into contract with pris-
 8 oners, after the date that is 1 year after the date of
 9 enactment of this Act.

10 **SEC. 7. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SE-**
 11 **CURITY NUMBER FOR CONSUMER TRANS-**
 12 **ACTIONS.**

13 (a) *IN GENERAL.*—Part A of title XI of the Social Se-
 14 curity Act (42 U.S.C. 1301 et seq.) is amended by adding
 15 at the end the following new section:

16 **“SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SO-**
 17 **CIAL SECURITY NUMBER FOR CONSUMER**
 18 **TRANSACTIONS.**

19 “(a) *IN GENERAL.*—A commercial entity may not re-
 20 quire an individual to provide the individual’s social secu-
 21 rity number when purchasing a commercial good or service
 22 or deny an individual the good or service for refusing to
 23 provide that number except—

24 “(1) for any purpose relating to—

1 “(A) obtaining a consumer report for any
2 purpose permitted under the Fair Credit Report-
3 ing Act;

4 “(B) a background check of the individual
5 conducted by a landlord, lessor, employer, vol-
6 untary service agency, or other entity as deter-
7 mined by the Attorney General;

8 “(C) law enforcement; or

9 “(D) a Federal, State, or local law require-
10 ment; or

11 “(2) if the social security number is necessary to
12 verify the identity with respect to the specific trans-
13 action or service requested by the consumer or to pre-
14 vent fraud.

15 “(b) *OTHER FORMS OF IDENTIFICATION.*—Nothing in
16 this section shall be construed to prohibit a commercial en-
17 tity from—

18 “(1) requiring an individual to provide 2 forms
19 of identification that do not contain the social secu-
20 rity number of the individual; or

21 “(2) denying an individual a good or service for
22 refusing to provide 2 forms of identification that do
23 not contain such number.

1 “(c) *APPLICATION OF CIVIL MONEY PENALTIES.*—A
2 *violation of this section shall be deemed to be a violation*
3 *of section 1129(a)(3)(F).*

4 “(d) *APPLICATION OF CRIMINAL PENALTIES.*—A vio-
5 *lation of this section shall be deemed to be a violation of*
6 *section 208(a)(8).”.*

7 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
8 *section (a) shall apply to requests to provide a social secu-*
9 *rity number made on or after the date of enactment of this*
10 *Act.*

11 **SEC. 8. EXTENSION OF CIVIL MONETARY PENALTIES FOR**
12 **MISUSE OF A SOCIAL SECURITY NUMBER.**

13 (a) *TREATMENT OF WITHHOLDING OF MATERIAL*
14 *FACTS.*—

15 (1) *CIVIL PENALTIES.*—*The first sentence of sec-*
16 *tion 1129(a)(1) of the Social Security Act (42 U.S.C.*
17 *1320a–8(a)(1)) is amended—*

18 (A) *by striking “who” and inserting*
19 *“who—”;*

20 (B) *by striking “makes” and all that follows*
21 *through “shall be subject to” and inserting the*
22 *following:*

23 “(A) *makes, or causes to be made, a statement or*
24 *representation of a material fact, for use in deter-*
25 *mining any initial or continuing right to or the*

1 *amount of monthly insurance benefits under title II*
2 *or benefits or payments under title VIII or XVI, that*
3 *the person knows or should know is false or mis-*
4 *leading;*

5 *“(B) makes such a statement or representation*
6 *for such use with knowing disregard for the truth; or*

7 *“(C) omits from a statement or representation*
8 *for such use, or otherwise withholds disclosure of, a*
9 *fact which the individual knows or should know is*
10 *material to the determination of any initial or con-*
11 *tinuing right to or the amount of monthly insurance*
12 *benefits under title II or benefits or payments under*
13 *title VIII or XVI and the individual knows, or should*
14 *know, that the statement or representation with such*
15 *omission is false or misleading or that the with-*
16 *holding of such disclosure is misleading,*
17 *shall be subject to”;*

18 *(C) by inserting “or each receipt of such*
19 *benefits while withholding disclosure of such*
20 *fact” after “each such statement or representa-*
21 *tion”;*

22 *(D) by inserting “or because of such with-*
23 *holding of disclosure of a material fact” after*
24 *“because of such statement or representation”;*
25 *and*

1 (E) by inserting “or such a withholding of
2 disclosure” after “such a statement or represen-
3 tation”.

4 (2) *ADMINISTRATIVE PROCEDURE FOR IMPOSING*
5 *PENALTIES.*—*The first sentence of section 1129A(a) of*
6 *the Social Security Act (42 U.S.C. 1320a–8a(a)) is*
7 *amended—*

8 (A) by striking “who” and inserting
9 “who—”; and

10 (B) by striking “makes” and all that follows
11 through “shall be subject to” and inserting the
12 following new paragraphs:

13 “(1) makes, or causes to be made, a statement or
14 representation of a material fact, for use in deter-
15 mining any initial or continuing right to or the
16 amount of monthly insurance benefits under title II
17 or benefits or payments under title VIII or XVI, that
18 the person knows or should know is false or mis-
19 leading;

20 “(2) makes such a statement or representation
21 for such use with knowing disregard for the truth; or

22 “(3) omits from a statement or representation for
23 such use, or otherwise withholds disclosure of, a fact
24 which the individual knows or should know is mate-
25 rial to the determination of any initial or continuing

1 *right to or the amount of monthly insurance benefits*
 2 *under title II or benefits or payments under title VIII*
 3 *or XVI and the individual knows, or should know,*
 4 *that the statement or representation with such omis-*
 5 *sion is false or misleading or that the withholding of*
 6 *such disclosure is misleading,*
 7 *shall be subject to”.*

8 **(b) APPLICATION OF CIVIL MONEY PENALTIES TO**
 9 **ELEMENTS OF CRIMINAL VIOLATIONS.**—*Section 1129(a) of*
 10 *the Social Security Act (42 U.S.C. 1320a–8(a)), as amend-*
 11 *ed by subsection (a)(1), is amended—*

12 *(1) by redesignating paragraph (2) as para-*
 13 *graph (4);*

14 *(2) by redesignating the last sentence of para-*
 15 *graph (1) as paragraph (2) and inserting such para-*
 16 *graph after paragraph (1); and*

17 *(3) by inserting after paragraph (2) (as so redesi-*
 18 *gnated) the following new paragraph:*

19 *“(3) Any person (including an organization, agency,*
 20 *or other entity) who—*

21 *“(A) uses a social security account number that*
 22 *such person knows or should know has been assigned*
 23 *by the Commissioner of Social Security (in an exer-*
 24 *cise of authority under section 205(c)(2) to establish*

1 *and maintain records) on the basis of false informa-*
2 *tion furnished to the Commissioner by any person;*

3 *“(B) falsely represents a number to be the social*
4 *security account number assigned by the Commis-*
5 *sioner of Social Security to any individual, when*
6 *such person knows or should know that such number*
7 *is not the social security account number assigned by*
8 *the Commissioner to such individual;*

9 *“(C) knowingly alters a social security card*
10 *issued by the Commissioner of Social Security, or*
11 *possesses such a card with intent to alter it;*

12 *“(D) knowingly displays, sells, or purchases a*
13 *card that is, or purports to be, a card issued by the*
14 *Commissioner of Social Security, or possesses such a*
15 *card with intent to display, purchase, or sell it;*

16 *“(E) counterfeits a social security card, or pos-*
17 *sesses a counterfeit social security card with intent to*
18 *display, sell, or purchase it;*

19 *“(F) discloses, uses, compels the disclosure of, or*
20 *knowingly displays, sells, or purchases the social secu-*
21 *rity account number of any person in violation of the*
22 *laws of the United States;*

23 *“(G) with intent to deceive the Commissioner of*
24 *Social Security as to such person’s true identity (or*
25 *the true identity of any other person) furnishes or*

1 causes to be furnished false information to the Com-
2 missioner with respect to any information required
3 by the Commissioner in connection with the establish-
4 ment and maintenance of the records provided for in
5 section 205(c)(2);

6 “(H) offers, for a fee, to acquire for any indi-
7 vidual, or to assist in acquiring for any individual,
8 an additional social security account number or a
9 number which purports to be a social security account
10 number; or

11 “(I) being an officer or employee of a Federal,
12 State, or local agency in possession of any individ-
13 ual’s social security account number, willfully acts or
14 fails to act so as to cause a violation by such agency
15 of clause (vi)(II) or (x) of section 205(c)(2)(C),

16 shall be subject to, in addition to any other penalties that
17 may be prescribed by law, a civil money penalty of not
18 more than \$5,000 for each violation. Such person shall also
19 be subject to an assessment, in lieu of damages sustained
20 by the United States resulting from such violation, of not
21 more than twice the amount of any benefits or payments
22 paid as a result of such violation.”.

23 (c) *CLARIFICATION OF TREATMENT OF RECOVERED*
24 *AMOUNTS.*—Section 1129(e)(2)(B) of the Social Security
25 Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking

1 *“In the case of amounts recovered arising out of a deter-*
2 *mination relating to title VIII or XVI,” and inserting “In*
3 *the case of any other amounts recovered under this section,”.*

4 *(d) CONFORMING AMENDMENTS.—*

5 *(1) Section 1129(b)(3)(A) of the Social Security*
6 *Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by*
7 *striking “charging fraud or false statements”.*

8 *(2) Section 1129(c)(1) of the Social Security Act*
9 *(42 U.S.C. 1320a–8(c)(1)) is amended by striking*
10 *“and representations” and inserting “, representa-*
11 *tions, or actions”.*

12 *(3) Section 1129(e)(1)(A) of the Social Security*
13 *Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by*
14 *striking “statement or representation referred to in*
15 *subsection (a) was made” and inserting “violation oc-*
16 *curred”.*

17 *(e) EFFECTIVE DATES.—*

18 *(1) IN GENERAL.—Except as provided in para-*
19 *graph (2), the amendments made by this section shall*
20 *apply with respect to violations of sections 1129 and*
21 *1129A of the Social Security Act (42 U.S.C. 1320–8*
22 *and 1320a–8a), as amended by this section, com-*
23 *mitted after the date of enactment of this Act.*

24 *(2) VIOLATIONS BY GOVERNMENT AGENTS IN*
25 *POSSESSION OF SOCIAL SECURITY NUMBERS.—Section*

1 *1129(a)(3)(I) of the Social Security Act (42 U.S.C.*
2 *1320a–8(a)(3)(I)), as added by subsection (b), shall*
3 *apply with respect to violations of that section occur-*
4 *ring on or after the effective date under section 3(c).*

5 **SEC. 9. TRUNCATION OF CREDIT CARD ACCOUNT NUMBERS.**

6 *(a) IN GENERAL.—Except as provided in this section,*
7 *no person, firm, partnership, association, corporation, or*
8 *limited liability company that accepts credit cards for the*
9 *transaction of business shall print more than the last 5 dig-*
10 *its of the credit card account number or the expiration date*
11 *upon any receipt provided to the cardholder.*

12 *(b) LIMITATION.—This section—*

13 *(1) applies only to receipts that are electroni-*
14 *cally printed; and*

15 *(2) does not apply to transactions in which the*
16 *sole means of recording the person’s credit card ac-*
17 *count number is by handwriting or by an imprint or*
18 *copy of the credit card.*

19 *(c) EFFECTIVE DATE.—This section shall become*
20 *effective—*

21 *(1) 4 years from the date of enactment of this*
22 *Act, with respect to any cash register or other ma-*
23 *chine or device that electronically prints receipts for*
24 *credit card transactions that is in use prior to the*
25 *date of enactment of this Act; and*

1 (2) *18 months from the date of enactment of this*
2 *Act, with respect to any cash register or other ma-*
3 *chine or device that electronically prints receipts for*
4 *credit card transactions that is first put into use on*
5 *or after the date of enactment of this Act.*

6 (d) *EFFECT ON STATE LAW.—Nothing in this section*
7 *prevents a State from imposing requirements that are the*
8 *same or substantially similar to the requirements of this*
9 *section at any time before the effective date of this section.*

○