

105TH CONGRESS  
1ST SESSION

# H. R. 1813

To protect the privacy of the individual with respect to the social security number and other personal information, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1997

Mr. KLECZKA (for himself, Mr. FRANKS of New Jersey, Mr. ENGLISH of Pennsylvania, Mr. TOWNS, Mr. FRANK of Massachusetts, Mr. BROWN of California, Mr. HASTINGS of Florida, Mr. BARRETT of Wisconsin, Ms. CARSON, Mr. MORAN of Virginia, Mr. STARK, Mr. CLAY, Mrs. CLAYTON, Mr. KILDEE, Mr. FROST, Mr. LUTHER, Mr. FILNER, and Mr. COOK) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To protect the privacy of the individual with respect to the social security number and other personal information, 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 “Personal Information  
5 Privacy Act of 1997”.

1 **SEC. 2. CONFIDENTIAL TREATMENT OF CREDIT HEADER**  
2 **INFORMATION.**

3 Section 603(d) of the Fair Credit Reporting Act (15  
4 U.S.C. 1681a(d)) is amended by inserting after the first  
5 sentence the following: “The term also includes any other  
6 identifying information of the consumer, except the name,  
7 address, and telephone number of the consumer if listed  
8 in a residential telephone directory available in the locality  
9 of the consumer.”.

10 **SEC. 3. PROTECTING PRIVACY BY PROHIBITING USE OF**  
11 **THE SOCIAL SECURITY NUMBER FOR COM-**  
12 **MERCIAL PURPOSES WITHOUT CONSENT.**

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:

16 “PROHIBITION OF CERTAIN MISUSES OF THE SOCIAL  
17 SECURITY ACCOUNT NUMBER

18 “SEC. 1146. (a) PROHIBITION OF COMMERCIAL AC-  
19 QUISSION OR DISTRIBUTION.—No person may buy, sell,  
20 offer for sale, take or give in exchange, or pledge or give  
21 in pledge any information for the purpose, in whole or in  
22 part, of conveying by means of such information any indi-  
23 vidual’s social security account number, or any derivative  
24 of such number, without the written consent of such indi-  
25 vidual.

1       “(b) PROHIBITION OF USE AS PERSONAL IDENTIFI-  
2       FICATION NUMBER.—No person may utilize any individ-  
3       ual’s social security account number, or any derivative of  
4       such number, for purposes of identification of such indi-  
5       vidual without the written consent of such individual.

6       “(c) PREREQUISITES FOR CONSENT.—In order for  
7       consent to exist under subsection (a) or (b), the person  
8       engaged in, or seeking to engage in, an activity described  
9       in such subsection shall—

10           “(1) inform the individual of all the purposes  
11           for which the number will be utilized and the per-  
12           sons to whom the number will be known; and

13           “(2) obtain affirmatively expressed consent in  
14           writing.

15       “(d) EXCEPTIONS.—Nothing in this section shall be  
16       construed to prohibit any use of social security account  
17       numbers permitted or required under section 205(c)(2) of  
18       this Act, section 7(a)(2) of the Privacy Act of 1974 (5  
19       U.S.C. 552a note; 88 Stat. 1909), or section 6109(d) of  
20       the Internal Revenue Code of 1986.

21       “(e) CIVIL ACTION IN UNITED STATES DISTRICT  
22       COURT; DAMAGES; ATTORNEYS FEES AND COSTS; NON-  
23       EXCLUSIVE NATURE OF REMEDY.—

24           “(1) IN GENERAL.—Any individual aggrieved  
25       by any act of any person in violation of this section

1 may bring a civil action in a United States district  
2 court to recover—

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

5 “(B) the greater of—

6 “(i) actual damages; and

7 “(ii) liquidated damages of \$25,000  
8 or, in the case of a violation that was will-  
9 ful and resulted in profit or monetary gain,  
10 \$50,000.

11 “(2) ATTORNEY’S FEES AND COSTS.—In the  
12 case of a civil action brought under paragraph (1)  
13 in which the aggrieved individual has substantially  
14 prevailed, the court may assess against the respond-  
15 ent a reasonable attorney’s fee and other litigation  
16 costs and expenses (including expert fees) reasonably  
17 incurred.

18 “(3) STATUTE OF LIMITATIONS.—No action  
19 may be commenced under this subsection more than  
20 3 years after the date on which the violation was or  
21 should reasonably have been discovered by the ag-  
22 grieved individual.

23 “(4) NONEXCLUSIVE REMEDY.—The remedy  
24 provided under this subsection shall be in addition to  
25 any other lawful remedy available to the individual.

1 “(f) CIVIL MONEY PENALTIES.—

2 “(1) IN GENERAL.—Any person who the Com-  
3 missioner of Social Security determines has violated  
4 this section shall be subject, in addition to any other  
5 penalties that may be prescribed by law, to—

6 “(A) a civil money penalty of not more  
7 than \$25,000 for each such violation, and

8 “(B) a civil money penalty of not more  
9 than \$500,000, if violations have occurred with  
10 such frequency as to constitute a general busi-  
11 ness practice.

12 “(2) DETERMINATION OF VIOLATIONS.—Any  
13 violation committed contemporaneously with respect  
14 to the social security account numbers of 2 or more  
15 individuals by means of mail, telecommunication, or  
16 otherwise shall be treated as a separate violation  
17 with respect to each such individual.

18 “(3) ENFORCEMENT PROCEDURES.—The provi-  
19 sions of section 1128A (other than subsections (a),  
20 (b), (f), (h), (i), (j), and (m), and the first sentence  
21 of subsection (c)) and the provisions of subsections  
22 (d) and (e) of section 205 shall apply to civil money  
23 penalties under this subsection in the same manner  
24 as such provisions apply to a penalty or proceeding  
25 under section 1128A(a), except that, for purposes of

1 this paragraph, any reference in section 1128A to  
2 the Secretary shall be deemed a reference to the  
3 Commissioner of Social Security.

4 “(g) REGULATION BY STATES.—Nothing in this sec-  
5 tion shall be construed to prohibit any State authority  
6 from enacting or enforcing laws consistent with this sec-  
7 tion for the protection of privacy.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section applies with respect to violations occurring on  
10 and after the date which is 2 years after the date of enact-  
11 ment of this Act.

12 **SEC. 4. RESTRICTION ON USE OF SOCIAL SECURITY NUM-**  
13 **BERS BY STATE DEPARTMENTS OF MOTOR**  
14 **VEHICLES.**

15 (a) RESTRICTION ON GOVERNMENTAL USE.—Section  
16 2721(b)(1) of title 18, United States Code, is amended  
17 by striking “its functions.” and inserting “its functions,  
18 but in the case of social security numbers, only to the ex-  
19 tent permitted or required under section 205(c)(2) of the  
20 Social Security Act (42 U.S.C. 405(c)(2)), section 7(a)(2)  
21 of the Privacy Act of 1974 (5 U.S.C. 552a note, 88 Stat.  
22 1909), section 6109(d) of the Internal Revenue Code of  
23 1986, or any other provision of law specifically identifying  
24 such use.”.

1           (b) PROHIBITION OF USE BY MARKETING COMPA-  
2 NIES.—Section 2721(b)(12) of title 18, United States  
3 Code, is amended by striking “For” and inserting “Except  
4 in the case of social security numbers, for”.

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