

110TH CONGRESS
2D SESSION

H. R. 5895

To require certain labeling of unsolicited commercial mail.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2008

Mr. ACKERMAN introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To require certain labeling of unsolicited commercial mail.

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 “Solicitation Disclosure
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) American consumers collectively spend mil-
9 lions of hours opening and reading mail they are in-
10 duced into falsely believing is from a government en-
11 tity or an institution with which they are currently
12 doing business;

1 (2) misleading commercial solicitations com-
2 monly employ the use of emblems, seals, or designs
3 similar to those used by the Federal government or
4 by State or local governments; and

5 (3) annually, millions of Americans receive com-
6 mercial solicitations in the mail luring them into
7 purchasing a good or service by deliberately mis-
8 leading them into believing they have won a contest.

9 **SEC. 3. LABELING REQUIREMENT FOR UNSOLICITED COM-**
10 **MERCIAL MAIL.**

11 (a) LABELING REQUIREMENT.—Beginning 6 months
12 after the date of enactment of this Act, any unsolicited
13 commercial offer that is sent to an individual through the
14 mails shall contain, on the outside of such solicitation, a
15 notice to the recipient. Such notice shall be in a large,
16 clear, and bold typeface, in a contrasting color, and in a
17 clear and conspicuous location on the outside envelope
18 containing such solicitation, or in the case of a solicitation
19 that is mailed without an envelope, in a clear and con-
20 spicuous location at the top of such solicitation. Such no-
21 tice shall read “THIS IS AN UNSOLICITED COMMERCIAL
22 OFFER FROM” followed by the name of the person or com-
23 pany making such offer.

1 (b) DEFINITION.—As used in this Act, the term “un-
2 solicited commercial offer” means any solicitation or offer
3 that—

4 (1) is sent to an individual without that indi-
5 vidual having requested such solicitation or offer;
6 and

7 (2) is for any financial product or service, in-
8 cluding loans or other offers of credit, offers of in-
9 surance coverage, debt refinancing services, debt
10 cancellation services, mortgages, and investment
11 products.

12 Such term does not include an advertisement for the pur-
13 chase of consumer goods at retail.

14 (c) ENFORCEMENT.—

15 (1) ENFORCING AGENCIES.—Compliance with
16 the requirements imposed under this section shall be
17 enforced under—

18 (A) section 8 of the Federal Deposit Insur-
19 ance Act (12 U.S.C. 1818), in the case of—

20 (i) national banks, and Federal
21 branches and Federal agencies of foreign
22 banks, by the Office of the Comptroller of
23 the Currency;

24 (ii) member banks of the Federal Re-
25 serve System (other than national banks),

1 branches and agencies of foreign banks
2 (other than Federal branches, Federal
3 agencies, and insured State branches of
4 foreign banks), commercial lending compa-
5 nies owned or controlled by foreign banks,
6 and organizations operating under section
7 25 or 25(a) of the Federal Reserve Act (12
8 U.S.C. 601 et seq., 611 et seq.), by the
9 Board; and

10 (iii) banks insured by the Federal De-
11 posit Insurance Corporation (other than
12 members of the Federal Reserve System)
13 and insured State branches of foreign
14 banks, by the Board of Directors of the
15 Federal Deposit Insurance Corporation;

16 (B) section 8 of the Federal Deposit Insur-
17 ance Act (12 U.S.C. 1818), by the Director of
18 the Office of Thrift Supervision, in the case of
19 a savings association the deposits of which are
20 insured by the Federal Deposit Insurance Cor-
21 poration;

22 (C) the Federal Credit Union Act (12
23 U.S.C. 1751 et seq.), by the Administrator of
24 the National Credit Union Administration with
25 respect to any Federal credit union; and

1 (D) the Securities Exchange Act of 1934
2 (15 U.S.C. 78a et seq.), by the Securities and
3 Exchange Commission, with respect to any
4 broker or dealer subject to that Act.

5 The terms used in subparagraph (A) that are not
6 defined in this Act or otherwise defined in section
7 3(s) of the Federal Deposit Insurance Act (12
8 U.S.C. 1813(s)) shall have the meaning given to
9 them in section 1(b) of the International Banking
10 Act of 1978 (12 U.S.C. 3101).

11 (2) VIOLATIONS OF SECTION DEEMED VIOLA-
12 TIONS OF PRE-EXISTING STATUTORY REQUIRE-
13 MENTS; ADDITIONAL POWERS.—For the purpose of
14 the exercise by any agency referred to in paragraph
15 (1) of its powers under any Act referred to in that
16 paragraph, a violation of any requirement imposed
17 under this section shall be deemed to be a violation
18 of a requirement imposed under that Act. In addi-
19 tion to its powers under any provision of law specifi-
20 cally referred to in paragraph (1), each of the agen-
21 cies referred to in that paragraph may exercise, for
22 the purpose of enforcing compliance with any re-
23 quirement imposed under this section, any other au-
24 thority conferred on it by law.

1 (3) OVERALL ENFORCEMENT AUTHORITY OF
2 FEDERAL TRADE COMMISSION.—Except to the ex-
3 tent that enforcement of the requirements imposed
4 under this section is specifically committed to some
5 other Government agency under paragraph (1), the
6 Federal Trade Commission shall enforce such re-
7 quirements. For the purpose of the exercise by the
8 Federal Trade Commission of its functions and pow-
9 ers under the Federal Trade Commission Act (15
10 U.S.C. 41 et seq.), a violation of any requirement
11 imposed under this section shall be deemed a viola-
12 tion of a requirement imposed under that Act. All of
13 the functions and powers of the Federal Trade Com-
14 mission under the Federal Trade Commission Act
15 are available to the Commission to enforce compli-
16 ance by any person subject to the jurisdiction of the
17 Commission with the requirements imposed under
18 this section, irrespective of whether that person is
19 engaged in commerce or meets any other jurisdic-
20 tional tests in the Federal Trade Commission Act.

21 (4) ADDITIONAL ENFORCEMENT WITH RESPECT
22 TO INSURANCE COMPANIES.—The attorney general
23 of a State, the State insurance commission, or any
24 other State agency authorized by State law may—

1 (A) bring a civil action on behalf of the
2 residents of the State in a district court of the
3 United States of appropriate jurisdiction to en-
4 force the provisions of this Act with respect to
5 insurance companies; and

6 (B) utilize administrative procedures au-
7 thorized by the State to enforce the provisions
8 of this Act with respect to insurance companies.

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