



**Summary of Social Security Account Number Privacy Legislation
Under Active Consideration in House and Senate
(as of Sept. 5, 2007)**

[H.R. 3046, the Social Security Number Privacy and Identity Theft Protection Act of 2007](#)

Status: Introduced July 16, 2007. Reported by the House Ways & Means Committee July 15, 2007.

Lead sponsors: Mr. McNulty (for himself, Mr. Sam Johnson of Texas, Mr. Rangel, Mr. McCrery, Mr. Stark, Mr. Levin, Mr. Lewis of Georgia, Mr. Lewis of Kentucky, Mr. Wolf, Mr. Becerra, Mr. Doggett, Mr. Pomeroy, Mr. Larson of Connecticut, Mr. Emanuel, Mr. Blumenauer, Mr. Pascrell, Mr. Meek of Florida, Mr. Hastings of Washington, Ms. Matsui, Mrs. Capps, Mr. Farr, Mr. Rodriguez, Mr. Filner, Ms. McCollum of Minnesota, and Mr. Hinchey.)

Consumers Union Position: Support legislation, but certain exceptions to the prohibitions on government sale of SSNs should be narrowed or eliminated and effective dates of the Act's provisions should be moved forward

Key Provisions:

Covered Entities:

- All Private Sector Businesses and Individuals
- Federal, State, and Local Governments

Definition of SSN: Covers full SSN and derivatives of, but not explicitly truncated SSNs

Solicitation of SSNs: No provisions

Sale & Purchase of SSNs:

- Prohibits sale or purchase of an SSN by private entities; and sale by government entities
- Sale/Purchase does not include submission of SSNs in applying for government benefits or programs; for administration of employee benefit plans (private sector) or sale, lease, merger or transfer of a business (private sector)
- Exceptions to Prohibitions on Private and Public Sector
 - To the extent necessary--
 - For law enforcement or national security
 - For public health purposes

- In emergency situations to protect the health or safety of one or more individuals
 - To comply with state or federal tax law
 - For publicly funded research to advance the public good if adequate assurances that privacy of individual will be protected, among other safeguards, including encryption of the numbers
- For sale or purchase to or from a Consumer Reporting Agency to provide consumer reports for limited purposes under the Fair Credit Reporting Act
 - No redaction requirement
- Upon the voluntary, affirmative and written consent of the individual
- Specific Exemptions for Prohibition on Government Sale
 - For use by a government agency, court or law enforcement agency or their agents in carrying out its functions
 - For use by any insurer or its agents in connection with claims investigation, underwriting or fraud detection.
 - For use by an employer or to verify information relating to holder of a Commercial Driver's License

Use of SSNs:

- Use as a password: No provision
- Use with Intent to Harass or Injure: May not obtain or use SSN for purpose of locating or identifying a person with intent to harass, harm or physically injure that person or to use SSN of that person for any illegal purpose
- Use as Authenticators: No provision
- Prisoner Access to Others' SSNs: Prohibits governmental entity from contracting for use of prisoners in manner that provides prisoners access to SSNs

Prohibition on Display of SSNs: (applies to both public and private sector)

- On the Internet
 - May not intentionally display any individual's SSN on a website in a viewable manner or to provide access to the general public
 - May not require transmission of SSN via Internet unless encrypted
- On Identification and Other Cards
 - May not display SSN on employee ID cards or to family members of employees
 - May not display on any card or tag issued for purpose of providing access to goods, services or benefits, including federally issued Medicare cards or student ID cards issued by public institutions
 - May not include a magnetic strip, bar code or other means of conveying the SSN on these types of cards
- On Checks:
 - May not include SSN on any check for payment or on any documents accompanying the check

Safeguarding SSNs:

- Entities having access to SSNs shall restrict access to those employees who need them to administer/enforce agency's statutory duties or as necessary to carry out the business
- Entities must adopt safeguards to prevent unauthorized access to SSNs

Enforcement:

- Regulatory Entity: Social Security Administration, in consultation with and discretion to delegate to the Attorney General, the Federal Trade Commission, and other relevant federal agencies.
- Penalties
 - Criminal penalties for certain types of violations with up to \$250,000 in fines and up to 5 years in prison; Misdemeanor for certain other offenses
 - Civil penalties of \$5,000 per violation for misuse or fraud associated with an SSN, for offering to acquire, for a fee, an SSN, for violations of Act by private actors and other related actions
- Regulatory Authority
 - SSA may provide additional exceptions to
 - sale and purchase prohibitions for private and public sector
 - legislation is ambiguous as to whether additional exceptions may be made for display on the Internet
 - Limitations on Authority:
 - No limitation on general rulemaking authority
 - SSA may issue law enforcement and national security exceptions to the sale and purchase prohibitions *only* upon finding of a compelling public interest that cannot otherwise be served and a finding of no unreasonable risk of ID theft, or bodily, emotional or financial harm resulting from the exception
 - SSA shall issue additional exceptions beyond those statutorily provided *only after considering*: whether the exception is required to meet a compelling public interest that cannot otherwise be served and the costs and benefits of the exception. If discretionary exception is authorized, SSA must ensure the exception protects against fraud, deception or crime from SSN use and to prevent unreasonable risk of bodily, emotional or financial harm considering the magnitude of the harm and the potential benefit.
- State enforcement: states may bring civil actions to enforce compliance with SSA regulations and impose civil penalties of up to \$11,000 per violation, capped at \$5 million total.

Effective Date:

- Public Sector
 - Prohibitions on Sale and Display: 2 1/2 years following enactment
 - Printing on Cards and Checks: 1 year after enactment (Medicare cards: 2 1/2 years after enactment)
 - Safeguards: 1 year after enactment

- Private Sector:
 - Printing on Cards and Checks: 2 1/2 years after enactment
 - Sale & Purchase Prohibitions: 2 1/2 years after enactment; *6 1/2 years if business truncates all but last four digits of the SSN*

Preemption: Displaces only those state statutes, regulations and rules that prohibit sale, purchase and display of SSNs that provide protections equal to or weaker than those provided under the Act

H.R. 948, the Social Security Number Protection Act of 2007

Status: Introduced February 8, 2007. Reported by the House Energy & Commerce Committee June 13, 2007.

Lead sponsors: Mr. Markey (for himself, Mr. Barton of Texas, Mr. Dingell, Mr. Rush, Mr. Stearns, Ms. Schakowsky, Mr. Gordon of Tennessee, Ms. Eshoo, Mr. Stupak, Mr. Gene Green of Texas, Ms. Degette, Mrs. Capps, Mr. Doyle, Ms. Solis, Mr. Gonzalez, Mr. Inslee, Ms. Baldwin, Ms. Hooley, Mr. Weiner, Mr. Matheson, Mr. Butterfield, Mr. Terry, Mr. Burgess, and Mr. Engel)

Consumers Union Position: Support goals of the legislation, but restrictions on authority of the Federal Trade Commission to promulgate rules should be loosened and provisions displacing more protective state SSN privacy laws should be narrowed.

Key Provisions:

Covered Entities:

- All Private Sector Businesses and Individuals
- Does not explicitly cover state, federal or local governments

Definition of SSN: Covers full SSN, not derivative of, or truncated SSN

Solicitation of SSNs: No provisions

Sale & Purchase of SSNs:

- Prohibits sale or purchase of an SSN
 - Sale/Purchase does not include transfers of SSNs for data matching purposes or submission of SSNs in applying for government benefits or programs
- Exceptions –
 - To the extent necessary for
 - law enforcement or national security purposes
 - public health purposes
 - in emergency situations to protect the health or safety of one or more individuals

- research conducted to advance public knowledge if adequate assurances that privacy of individual will be protected, among other safeguards
- upon the voluntary, affirmative and written consent of the individual
- For legitimate consumer credit verification if SSNs are redacted in accordance with FTC developed uniform redaction standards (not limited to sale or purchase to or from a consumer reporting agency)

Use of SSNs:

- Use as Password: May not require customers or members to use their SSNs as a password to access goods or services, including on a protected access website
- Use with Intent to Harass or Injure: No provision
- Use as Authenticators: Mandates a study of the feasibility of eliminating use of SSNs as authenticators
- Prisoner Access to Others' SSNs: No provisions

Prohibition on Display of SSNs:

- On the Internet
 - May not display any individual's SSN on a website generally accessible to the public
 - May not provide access to the SSN of another via the Internet
- On Identification and Other Cards
 - May not display SSN on any ID or membership card
- On Checks: No provisions

Enforcement:

- Enforcement Body: Federal Trade Commission
- Penalties for Non-Compliance: General penalties under the FTC Act
- Regulatory Authority
 - Violations of the Act's prohibitions on use and display, and violation of FTC regulations regarding sale or purchase deemed an "unfair and deceptive act or practice"
 - FTC may provide additional exceptions to
 - sale and purchase prohibitions w/ assurances of protection against fraud, crime or deception and to prevent undue risk of bodily, emotional or financial harm
 - display and use prohibitions if consistent with the public interest, protection of consumers and purposes of the Act
 - Limitations on Authority:
 - FTC may issue rules prohibiting sale and purchase of SSNs that are *no broader than necessary* to ensure that SSNs will not be used to commit/facilitate fraud, deception or crime and to prevent undue risk of bodily emotional or financial harm.
- State enforcement: states may bring civil actions to enforce compliance with FTC regulations on sale and purchase prohibitions. Civil penalties of up to \$11,000 per violation, capped at \$5 million total

Effective Date:

- Display Prohibitions: Date of enactment
- Sale and Purchase Prohibitions: 13 months after enactment

Preemption: Displaces state laws that prohibit display on cards, display on the Internet and use as a password and laws that limit sale and purchase in a manner similar to regulations promulgated by the FTC under the Act.

S.1178, the Identity Theft Protection Act (Section 11 in bill as reported)

Status: Introduced April 20, 2007. Reported by the Commerce, Science and Transportation Committee April 25, 2007.

Lead sponsors: Sen. Inouye (for himself, Sen. Stevens, Sen. Nelson, Sen. Pryor, and Sen. Smith)

Consumers Union Position: Support security freeze provisions of the legislation, but SSN protection provisions require strengthening to eliminate broad exceptions that negate protections and to narrow displacement of state law. Other provisions in the bill, such as requirements for consumer notification of security breach of sensitive information should be strengthened.

Key Provisions:**Covered Entities:**

- All Private Sector Businesses and Individuals
- Does not cover government entities except w/ respect to display on driver's licenses and prisoner access to SSNs.

Definition of SSN: Covers full SSN and SSNs truncated in a manner to reveal more than five digits

Solicitation of SSNs:

- Prohibits solicitation of SSNs unless no other identifier can reasonably be used
- Exceptions to solicitation prohibitions –
 - Identification, verification, accuracy or authentication of identity
 - To obtain a consumer report, for any purpose permitted under the Fair Credit Reporting Act, by a consumer reporting agency for identity authentication
 - For any purpose permitted under the privacy exceptions (Section 502(e)) of the Gramm-Leach-Bliley Act
 - To the extent necessary to verify accuracy of information submitted to a covered entity or to authenticate or obtain proof of identity
 - To locate missing/abducted children, criminals, fugitives, parties to a lawsuit, deadbeat parents, missing heirs and other similar purposes

- To extent necessary to prevent, detect or investigate fraud, unauthorized transaction, collect consumer debt, and other related purposes

Sale & Purchase of SSNs:

- Prohibits sale or purchase of an SSN
- Exceptions –
 - To the extent necessary —
 - For law enforcement or national security purposes
 - For public health purposes
 - In emergency situations to protect the health or safety of one or more individuals
 - For publicly funded (non-market) research to advance the public good if adequate assurances that privacy of individual will be protected, among other safeguards, including encryption or other similar protections
 - To verify accuracy of information submitted to a covered entity or to authenticate or obtain proof of identity
 - To locate missing/abducted children, criminals, fugitives, parties to a lawsuit, deadbeat parents, missing heirs and other similar purposes
 - To prevent, detect or investigate fraud, unauthorized transaction, collect consumer debt, and other related purposes
 - If transmission is incidental to and in course of sale, lease or merger of a business
 - If sale or display is required or permitted under state or federal law
 - If SSN obtained from the sale or provision of a document lawfully obtained from federal, state, or local government or if SSN was available to public via media, provided that the SSN was not combined with information from non-public sources
 - For any purpose permitted under the Fair Credit Reporting Act or Section 502(e) of the Gramm-Leach-Bliley Act
 - Upon the voluntary, affirmative and written consent of the individual

Use of SSNs:

- Use as Password: No provision
- Use w/ Intent to Harass or Injure: May not obtain or use SSN for purpose locating or identifying a person with intent to physically injure or harm or use identity of that person (does not cover harassment)
- Use as Authenticators: Use explicitly allowed under exceptions to prohibition of solicitation, sale, purchase and display exceptions
- Prisoner Access to Others' SSNs: Prohibits governmental entity from contracting for use of prisoners in manner that provides prisoners access to SSNs

Prohibition on Display of SSNs: Generally prohibits display to the general public

- **Exceptions:** same as exceptions for sale and purchase
- On the Internet: no explicit provisions
- On Identification and Other Cards

- May not display SSN or derivative on ID cards issued to employees or their family members, students, faculty or staff
 - States may not display full SSN on Driver's Licenses
- Checks: No provisions

Enforcement:

- Enforcement Body: Federal Trade Commission except for entities regulated by banking and securities agencies
- Penalties for Non-Compliance: General penalties of the FTC Act
- Regulatory Authority
 - Violations of prohibitions on use or display deemed an “unfair and deceptive act or practice”
- State enforcement: states may bring civil actions to enforce compliance with the Act and seek damages, restitution, and other compensation.

Preemption: Displaces state statutes, regulations and rules that limit the collection, solicitation, sale, purchase and display of SSNs in manner similar to those limitations provided for in the Act.