

110TH CONGRESS
1ST SESSION

H. R. 852

To prohibit the obtaining of customer information from telecommunications carriers by false pretenses, and the sale or disclosure of such records obtained by false pretenses.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2007

Mr. INSLEE (for himself and Mrs. BLACKBURN) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To prohibit the obtaining of customer information from telecommunications carriers by false pretenses, and the sale or disclosure of such records obtained by false pretenses.

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 “Consumer Telephone
5 Records Protection Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) customer telephone records may be accessed
9 without authorization of the customer by—

1 (A) an employee of the telephone company
2 selling the data;

3 (B) “pretexting”, whereby a data broker or
4 other person pretends to be the owner of the
5 phone and convinces the telephone company’s
6 employees to release the data to them; or

7 (C) unauthorized access of accounts via the
8 Internet; and

9 (2) because telephone companies encourage cus-
10 tomers to manage their accounts online, many set up
11 the online capability in advance. Many customers
12 never access their Internet accounts, however. If
13 someone seeking the information activates the ac-
14 count before the customer, he or she can gain unfet-
15 tered access to the telephone records and call logs of
16 that customer.

17 **SEC. 3. UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN**
18 **CONNECTION WITH OBTAINING CONFIDEN-**
19 **TIAL PHONE RECORDS INFORMATION OF A**
20 **COVERED ENTITY.**

21 (a) PROHIBITION ON OBTAINING CONFIDENTIAL
22 PHONE RECORDS INFORMATION UNDER FALSE PRE-
23 TENSES.—It shall be unlawful for any person in interstate
24 or foreign commerce to knowingly and intentionally ob-

1 tain, or attempt to obtain, confidential phone records in-
2 formation of a covered entity, by—

3 (1) making false or fraudulent statements or
4 representations to an employee of a covered entity;

5 (2) making such false or fraudulent statements
6 or representations to a customer of a covered entity;

7 (3) providing a document to a covered entity
8 knowing that such document is false or fraudulent;
9 or

10 (4) accessing customer accounts of a covered
11 entity via the Internet, or by means of conduct that
12 violates section 1030 of this title, without prior au-
13 thorization from the customer to whom such con-
14 fidential phone records information relates.

15 (b) PROHIBITION ON SALE OR TRANSFER OF CON-
16 FIDENTIAL PHONE RECORDS INFORMATION.—

17 (1) Except as otherwise permitted by applicable
18 law, it shall be unlawful for any person in interstate
19 or foreign commerce to knowingly and intentionally
20 sell or transfer, or attempt to sell or transfer, con-
21 fidential phone records information of a covered en-
22 tity, without prior authorization from the customer
23 to whom such confidential phone records information
24 relates, or knowing or having reason to know such
25 information was obtained fraudulently.

1 (2) For purposes of this subsection, the excep-
2 tions specified in section 222(d) of the Communica-
3 tions Act of 1934 (47 U.S.C. 222(d)) shall apply for
4 the use of confidential phone records information by
5 any covered entity, as defined in section 7.

6 (c) PROHIBITION ON PURCHASE OR RECEIPT OF
7 CONFIDENTIAL PHONE RECORDS INFORMATION.—

8 (1) Except as otherwise permitted by applicable
9 law, it shall be unlawful for any person in interstate
10 or foreign commerce to knowingly and intentionally
11 purchase or receive, or attempt to purchase or re-
12 ceive, confidential phone records information of a
13 covered entity, without prior authorization from the
14 customer to whom such confidential phone records
15 information relates, or knowing or having reason to
16 know such information was obtained fraudulently.

17 (2) For purposes of this subsection, the excep-
18 tions specified in section 222(d) of the Communica-
19 tions Act of 1934 (47 U.S.C. 222(d)) shall apply for
20 the use of confidential phone records information by
21 any covered entity, as defined in section 7.

22 **SEC. 4. NONAPPLICABILITY TO LAW ENFORCEMENT AGEN-**
23 **CIES.**

24 Section 3 shall not prohibit any lawfully authorized
25 investigative, protective, or intelligence activity of a law

1 enforcement agency of the United States, a State, or polit-
2 ical subdivision of a State, or of an intelligence agency
3 of the United States.

4 **SEC. 5. TELECOMMUNICATIONS CARRIER NOTIFICATION**
5 **REQUIREMENT.**

6 Section 222 of the Communications Act of 1934 (47
7 U.S.C. 222) is amended—

8 (1) by redesignating subsection (h) as sub-
9 section (i); and

10 (2) by inserting after subsection (g) the fol-
11 lowing new subsection:

12 “(h) NOTICE OF VIOLATIONS.—The Commission
13 shall by regulation require each telecommunications car-
14 rier to notify the customer of any incidents in which such
15 telecommunications carrier becomes or is made aware in
16 which customer proprietary network information relating
17 to such customer is disclosed to someone other than the
18 customer in violation of this section or section 3 of the
19 Consumer Telephone Records Protection Act of 2006.”.

20 **SEC. 6. ENFORCEMENT BY THE FEDERAL TRADE COMMIS-**
21 **SION.**

22 A violation of section 3 shall be treated as an unfair
23 or deceptive act or practice in violation of section 5 of the
24 Federal Trade Commission Act (15 U.S.C. 45). All of the
25 functions and powers of the Federal Trade Commission

1 under that Act are available to the Commission to enforce
2 compliance by any person with such section, irrespective
3 of whether that person is engaged in commerce or meets
4 any other jurisdictional tests in the Federal Trade Com-
5 mission Act, including the power to enforce the provisions
6 of such section in the same manner as if the violation had
7 been a violation of a Federal Trade Commission trade reg-
8 ulation rule.

9 **SEC. 7. DEFINITIONS.**

10 As used in this Act, the following definitions apply:

11 (1) CONFIDENTIAL PHONE RECORDS INFORMA-
12 TION.—The term “confidential phone records infor-
13 mation” means information that—

14 (A) relates to the quantity, technical con-
15 figuration, type, destination, location, or
16 amount of use of a service offered by a covered
17 entity, subscribed to by any customer of that
18 covered entity, and kept by or on behalf of that
19 covered entity solely by virtue of the relation-
20 ship between that covered entity and the cus-
21 tomer;

22 (B) is made available to a covered entity
23 by a customer solely by virtue of the relation-
24 ship between that covered entity and the cus-
25 tomer; or

1 (C) is contained in any bill, itemization, or
2 account statement provided to a customer by or
3 on behalf of a covered entity solely by virtue of
4 the relationship between that covered entity and
5 the customer.

6 (2) COVERED ENTITY.—The term “covered en-
7 tity”—

8 (A) has the same meaning given the term
9 “telecommunications carrier” in section 3 of the
10 Communications Act of 1934 (47 U.S.C. 153);
11 and

12 (B) includes any provider of IP-enabled
13 voice service.

14 (3) CUSTOMER.—The term “customer” means,
15 with respect to a covered entity, any individual, part-
16 nership, association, joint stock company, trust, or
17 corporation, or authorized representative of such
18 customer, to whom the covered entity provides a
19 product or service.

20 (4) IP-ENABLED VOICE SERVICE.—The term
21 “IP-enabled voice service” means the provision of
22 real-time voice communications offered to the public,
23 or such class of users as to be effectively available
24 to the public, transmitted through customer prem-
25 ises equipment using TCP/IP protocol, or a suc-

1 cessor protocol, (whether part of a bundle of services
2 or separately) with interconnection capability such
3 that the service can originate traffic to, or terminate
4 traffic from, the public switched telephone network,
5 or a successor network.

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