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111TH CONGRESS
2D SESSION

S. 3427

To institute an identification requirement for the purchase of pre-paid mobile devices.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2010

Mr. SCHUMER (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To institute an identification requirement for the purchase of pre-paid mobile devices.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pre-Paid Mobile Device Identification Act''.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term ''authorized reseller'' means any person authorized by a—

(A) manufacturer to sell the manufacturer's mobile devices or SIM cards; or

(B) wireless carrier to sell pre-paid mobile devices or SIM cards to which the wireless carrier will provide wireless cellular service;

(2) the term ''pre-paid mobile device'' means any cellular phone or similar wireless communication device for which the mobile device user purchases a set allotment of wireless communication service;

(3) the term ''SIM card'' means a subscriber identity module or functionally equivalent data storage device; and

(4) the term ''wireless carrier'' has the same meaning as in section 6(4) of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b(4)).

SEC. 3. IDENTIFICATION REQUIREMENT.

Prior to the completion of any sale of a pre-paid mobile device or SIM card to a purchaser, an authorized reseller shall require the purchaser to provide the following information:

(1) The full name of the purchaser.

(2) The complete home address of the purchaser.

(3) The date of birth of the purchaser.

SEC. 4. IDENTIFICATION VERIFICATION.

(a) IN PERSON SALES.—An authorized reseller making a sale to a purchaser in person shall verify the purchaser information provided under section 3 by requiring the purchaser to display—

(1) a photographic identification card issued by a Federal or State government, or a document considered acceptable for purposes of subparagraphs (B), (C), or (D) of section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)); or

(2) any 2 of the following documents:

(A) A Form W–2 Wage and Tax Statement received from the Internal Revenue Service, provided that such form has been received from the Internal Revenue Service within the prior 18 months.

(B) A Form 1099 Social Security Benefit Statement received from the Social Security Administration, provided that such form has been received from the Social Security Administration within the prior 18 months.

(C) A Form 1099 received from any other agency of the Federal Government other than the Social Security Administration, including the Internal Revenue Service, provided that

such form has been received within the prior 18 months.

(D) Any document containing personal identifying information that the Attorney General finds, by regulation, to be acceptable for purposes of this section.

(b) OTHER SALES.—An authorized reseller making a sale to a purchaser not in person shall verify the purchaser information provided under section 3 by requiring the purchaser to submit the following information:

(1) Valid credit or debit card account information.

(2) Social Security number.

(3) Driver's license number.

(4) Any other personal identifying information that the Attorney General finds, by regulation, to be necessary for purposes of this section.

SEC. 5. RECORD MAKING REQUIREMENT.

Upon completion of a sale of a pre-paid mobile device or SIM card, an authorized reseller shall make a record of the sale that includes the following information:

(1) The information obtained from the purchaser under section 3, and, if applicable, the information submitted by the purchaser under subsection (b) of section 4.

(2) The date of sale.

(3) The manufacturer of the pre-paid mobile device or SIM card.

(4) The wireless carrier that will provide wireless communication service to the pre-paid mobile device or SIM card.

(5) Any assigned telephone number or other subscriber or account identifier known at the time of purchase.

(6) Any of the following, if applicable to the pre-paid mobile device or SIM card:

(A) International mobile equipment identifier number.

(B) Electronic serial number.

(C) Mobile equipment identifier.

(D) International mobile subscriber identifier.

(E) Machine address code.

SEC. 6. RECORD TRANSMISSION REQUIREMENT.

(a) IN GENERAL.—Not later than 30 days after the sale of a pre-paid mobile device or SIM card, an authorized reseller shall transmit the record of the sale made in accordance with section 5 to the wireless carrier that will provide wireless communication service to the pre-paid mobile device or SIM card.

(b) PERMISSIBLE MEANS OF TRANSMISSION.—In complying with the requirements of subsection (a), an authorized reseller may transmit the sale record to the wireless carrier by means of secure electronic transmission.

SEC. 7. RECORDKEEPING REQUIREMENT.

After an authorized reseller has transmitted the sale record to the wireless carrier in accordance with section 6, a wireless carrier shall—

(1) provide a transmission confirmation receipt to the authorized reseller, after the receipt of which the authorized reseller shall dispose promptly of any retained copy of the record; and

(2) retain the transmitted sale record in accordance with the privacy protections of section 222 of the Communications Act of 1934 (47 U.S.C. 222) for a period of 18 months or until the wireless carrier stops or otherwise discontinues providing service to the pre-paid mobile device or SIM card to which the sale record relates.

SEC. 8. PENALTIES.

(a) FOR FALSE OR MISLEADING STATEMENTS.—A purchaser who provides false or misleading information when providing the identifying information and documents required under sections 3 and 4 shall be subject to crimi-

nal penalties under section 1001 of title 18, United States Code.

(b) FAILURE TO COMPLY.—

(1) IN GENERAL.—An authorized reseller or wireless carrier who fails to comply with the requirements of this Act shall be subject to a civil fine of $50 per offense.

(2) SEPARATE OFFENSE.—Each separate sale of a pre-paid mobile device or SIM card for which purchaser identification is not requested or verified in accordance with sections 3 and 4, or for which the required record is not made or maintained in accordance with sections 5 or 7, shall constitute a separate offense.

(3) RULE OF CONSTRUCTION.—For purposes of this section—

(A) a wireless carrier is not responsible for an offense of an authorized reseller; and

(B) an authorized reseller is not responsible for an offense of a wireless carrier.

SEC. 9. RELATED OFFENSES.

(a) SALE BY NONAUTHORIZED RESELLERS.—

(1) IN GENERAL.—It shall be unlawful for any person who is not an authorized reseller to sell prepaid mobile devices or SIM cards.

(2) PENALTY.—Any person that violates the prohibition set forth under paragraph (1) shall be fined not more than $500, imprisoned for not less than 1 year, or both.

(3) NOTICE.—The Attorney General shall establish regulations requiring manufacturers and authorized resellers to notify purchasers of mobile devices and SIM cards of the offense and penalty established by this section.

(b) COMMISSION OF OTHER CRIMES.—If a person uses a pre-paid mobile device or SIM card obtained in violation of this Act to commit a Federal criminal offense, the minimum term of imprisonment for such offense that is required under Federal statute shall be increased by 1 year.

SEC. 10. PREEMPTION DISCLAIMER.

Nothing in this Act is intended to preempt or otherwise prevent or prohibit any State of the power to enact additional requirements with respect to the distribution and sale of mobile devices or SIM cards.

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