ELECTRONIC BENEFIT TRANSFER INTEROPERABILITY AND PORTABILITY ACT OF 1999

SEC. 1. SHORT TITLE. This Act may be cited as the "Electronic Benefit Transfer Interoperability and Portability Act of 1999."  

SEC. 2. PURPOSES. The purposes of this Act are—  
(1) to protect the integrity of the food stamp program;  
(2) to ensure cost-effective portability of food stamp benefits across State borders without imposing additional administrative expenses for special equipment to address problems relating to the portability;  
(3) to enhance the flow of interstate commerce involving electronic transactions involving food stamp benefits under a uniform national standard of interoperability and portability; and  
(4) to eliminate the inefficiencies resulting from a patchwork of State-administered systems and regulations established to carry out the food stamp program.  

SEC. 3. INTEROPERABILITY AND PORTABILITY OF FOOD STAMP TRANSACTIONS.  

Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including the feasibility and desirability of a national intelligent benefit card, is repealed.  

The term ‘electronic benefit transfer card’ means a card that provides benefits under this Act through an electronic benefit transfer service (as defined in section 1(ii)(A)).  

The term ‘electronic benefit transfer contract’ means a contract that provides for the issuance, use, or redemption of coupons in the form of electronic benefit transfer cards.  

The term ‘interoperability’ means a system that enables a coupon issued in the form of an electronic benefit transfer card to be redeemed in any State.  

The term ‘interstate transaction’ means a transaction that is initiated in 1 State by the use of an electronic benefit transfer card that is issued in another State.  

The term ‘portability’ means a system that enables a coupon issued in the form of an electronic benefit transfer card to be redeemed in any State by a household to purchase food at a retail food store or wholesale food concern approved to participate in the food stamp program.  

This Act may be cited as the "Millennium Digital Commerce Act".  

SECTION 1. SHORT TITLE.  

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

SEC. 2. FINDINGS. The Congress makes the following findings:  
(1) The growth of electronic commerce and electronic government transactions represents a powerful force for economic growth, consumer choice, improved civic participation and wealth creation.  
(2) The promotion of growth in private sector electronic commerce through Federal legislation is in the national interest because that market is globally important to the United States.  
(3) A consistent legal framework, across multiple jurisdictions, for electronic commerce will provide the growth of such transactions and that such a framework should be based upon a simple, technology neutral, nonregulatory, and market-based approach.  
(4) The Nation and the world stand at the beginning of a large scale transition to an information society which will require innovative legal and policy approaches, and therefore, States can serve the national interest by continuing their proven role as laboratories of innovation for quickly evolving areas of public policy, provided that States
also adopt a consistent, reasonable national baseline and obviate the need for unduly burdensome and duplicative regulations. In the important burgeoning area of electronic commerce, the national interest is best served by Federal preemption to the extent necessary to provide such consistent, reasonable national baseline or eliminate said burden, but that absent such lack of consistent, reasonable national baseline or such undue burdens, the best system for electronic commerce will result from continuing experimentation by individual jurisdictions.

(6) With due regard to the fundamental need for a consistent national baseline, each jurisdiction that enacts such laws should have the right to determine the need for any exceptions to protect consumers and maintain consistency with existing related bodies of law within a particular jurisdiction.

(7) Industry has developed several electronic signature technologies for use in electronic commerce. In the public interest, the policies of the United States should serve to promote a dynamic marketplace within which these technologies can compete. Consistent with this Act, States should permit the use and development of any authentication technologies that are appropriate as practicable as between private parties and in use with Federal agencies.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to permit and encourage the continued expansion of electronic commerce through the operation of free market forces rather than prescriptive governmental mandates and regulations;

(2) to promote public confidence in the validity, integrity and reliability of electronic commerce and online government under Federal law;

(3) to facilitate and promote electronic commerce by clarifying the legal status of electronic records and electronic signatures in the context of contract formation;

(4) to ensure that parties engaged in interstate transactions are able to agree among themselves on the appropriate electronic signature technologies for their transactions; and

(5) to promote the development of a consistent national legal infrastructure necessary to support electronic commerce at the Federal and State levels within existing areas of jurisdiction.

SEC. 4. DEFINITIONS.

In this Act—

(1) ELECTRONIC.—The term ‘‘electronic’’ means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) ELECTRONIC AGENT.—The term ‘‘electronic agent’’ means a computer program or an electronic or other automated means used to initiate an action or respond to electronic records or the performance of any function without review by an individual at the time of the action or response.

(3) ELECTRONIC RECORD.—The term ‘‘electronic record’’ means any record created, generated, sent, communicated, received, or stored by electronic means.

(4) ELECTRONIC SIGNATURE.—The term ‘‘electronic signature’’ means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(5) GOVERNMENTAL AGENCY.—The term ‘‘governmental agency’’ means an executive, legislative, or judicial agency, department, board, commission, authority, or institution of the Federal Government or of a State, county, municipality, or other political subdivision of a State.

(6) INTERSTATE AGREEMENT.—The term ‘‘agreement’’ means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(7) TRANSACTION.—The term ‘‘transaction’’ means an action or set of actions relating to the conduct of commerce, between 2 or more persons, neither of which is the United States Government, a State, an agency, department, board, commission, authority, or institution of the United States Government or of a State.

(8) UNIFORM ELECTRONIC TRANSACTIONS ACT.—The term ‘‘Uniform Electronic Transactions Act’’ means the Uniform Electronic Transactions Act adopted by the National Conference of Commissioners on Uniform State Law in that form or any substantially similar variation thereof.

SEC. 5. INTERSTATE CONTRACT CERTAINTY.

(a) IN GENERAL.—In any commercial transaction affecting interstate commerce, a contract may not be denied legal effect or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) METHODS.—Parties to a transaction are permitted to determine the appropriate electronic signature technologies for their transaction, and the means of implementing such technologies.

(c) PRESENTATION OF CONTRACTS.—Notwithstanding subsection (a), if a law requires that a contract be in writing, the legal effect or enforceability of an electronic record of such contract shall be denied under such law, unless it is delivered to all parties to such contract in a form that—

(1) can be identified by the parties for later reference; and

(2) can be used to prove the terms of the agreement.

(d) SYNDIC EXCLUSIONS.—The provisions of this section shall not apply to a statute, regulation, or other rule of law governing any of the following:

(1) The Uniform Commercial Code, as in effect in a State, other than sections 1-107 and 1-206, Article 2, and Article 2A.

(2) Premarital agreements, marriage, adoption, divorce or other matters of family law.

(3) Documents of title which are filed of record in effect in a State.

(4) Residential landlord-tenant relationships.

(5) The Uniform Health-Care Decisions Act as in effect in a State.

(e) ELECTRONIC AGENTS.—A contract relating to a commercial transaction affecting interstate commerce may not be denied legal effect or enforceability solely because its formation involved—

(1) the interaction of electronic agents of the parties; or

(2) the interaction of an electronic agent of a party and an individual who acts on that individual’s own behalf or as an agent for another person.

(f) INSURANCE.—It is the specific intent of the Congress that this section apply to the business of insurance.

(c) APPLICATION IN UETA STATES.—This Act does not apply in any State in which the Uniform Electronic Transactions Act is in effect.

SEC. 6. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTER-NATIONAL TRANSACTIONS.

To the extent practicable, the Federal Government shall observe the following principles in an international context to enable commercial electronic transactions:


(2) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(3) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their signatures and other approaches and their transactions are valid.

(4) Take a nondiscriminatory approach to electronic signatures and authentication methods from other jurisdictions.

SEC. 7. STUDY OF LEGAL AND REGULATORY BARRIERS TO ELECTRONIC COMMERCE.

(a) BARRIERS.—Each Federal agency shall, not later than 6 months after the date of enactment of this Act, provide a report to the Director of the Office of Management and Budget and the Secretary of Commerce identifying any provisions of law administered by such agency, or any regulations issued by such agency and in effect on the date of enactment of this Act, that may impose a barrier to electronic transactions, or otherwise require that signatures, or records of transactions, be accomplished or retained in other than electronic form. In its report, each agency shall identify the barriers and other electronic transactions it would require legislative action, and shall indicate agency plans to undertake regulatory action to remove such barriers among those identified, and caused by regulations issued by the agency.

(b) REPORT TO CONGRESS.—The Secretary of Commerce, in consultation with the Director of the Office of Management and Budget, shall, within 18 months after the date of enactment of this Act, and after the consultation required by subsection (c) of this section, report to the Congress concerning—

(1) legislation needed to remove barriers to electronic transactions or otherwise to the conduct of commerce online or by electronic means; and

(2) actions being taken by the Executive Branch and individual Federal agencies to remove such barriers as are caused by agency regulations or policies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary of Commerce shall consult with the General Services Administration, the National Archives and Records Administration, and the Attorney General concerning matters involving the authenticity of records, their storage and retention, and their usability for law enforcement purposes.

(d) INCLUDE FINDINGS IF NO RECOMMENDATIONS.—If the report required by this section omits recommendations it is needed to fully remove identified barriers to electronic transactions or to online or electronic commerce, the report shall include findings that such barriers remain and the reasons for the barriers, and shall state the reasons why recommendations are not included and the reasons why such barriers remain.

November 19, 1999