

110TH CONGRESS
1ST SESSION

H. R. 493

[Report No. 110-]

To prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2007

Ms. SLAUGHTER (for herself, Mrs. BIGGERT, Ms. ESHOO, Mr. WALDEN of Oregon, Mr. GEORGE MILLER of California, Mr. DINGELL, Mr. RANGEL, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ALLEN, Mr. BACHUS, Mr. BAKER, Ms. BALDWIN, Mr. BARTLETT of Maryland, Mr. BILIRAKIS, Mrs. BLACKBURN, Mr. BLUMENAUER, Mrs. BONO, Mr. BOUSTANY, Mr. BROWN of South Carolina, Ms. GINNY BROWN-WAITE of Florida, Mr. BURTON of Indiana, Mr. CALVERT, Mrs. CAPITO, Mrs. CAPPS, Mr. CAPUANO, Mr. CASTLE, Mr. CHABOT, Mr. CHANDLER, Mr. COLE of Oklahoma, Mr. CONAWAY, Mr. CONYERS, Mrs. DAVIS of California, Mr. TOM DAVIS of Virginia, Mr. DAVIS of Kentucky, Ms. DEGETTE, Mr. DICKS, Mr. DOGGETT, Mrs. DRAKE, Mr. DUNCAN, Mr. EHLERS, Mr. EMANUEL, Mrs. EMERSON, Mr. ENGEL, Mr. ENGLISH of Pennsylvania, Mr. FARR, Mr. FERGUSON, Mr. FRELINGHUYSEN, Mr. GALLEGLY, Mr. GERLACH, Mr. GILCHREST, Mr. GILLMOR, Mr. GOHMERT, Ms. GRANGER, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HALL of Texas, Mr. HASTINGS of Washington, Mr. HERGER, Ms. HERSETH, Mr. HINOJOSA, Ms. HIRONO, Mr. HOBSON, Mr. HOEKSTRA, Ms. HOOLEY, Mr. HUNTER, Mr. ISRAEL, Mr. JOHNSON of Illinois, Mr. JONES of North Carolina, Mr. KANJORSKI, Mr. KENNEDY, Mr. KILDEE, Mr. KING of New York, Mr. KIRK, Mr. KUCINICH, Mr. KUHL of New York, Mr. LAHOOD, Mr. LATHAM, Mr. LEWIS of Kentucky, Mr. LIPINSKI, Mr. LOBIONDO, Ms. ZOE LOFGREN of California, Mr. LUCAS, Mrs. MALONEY of New York, Mr. MANZULLO, Mr. MARCHANT, Mr. MCCAUL of Texas, Ms. MCCOLLUM of Minnesota, Mr. MCCOTTER, Mr. MCHUGH, Mr. McNULTY, Mr. MICA, Mr. MORAN of Virginia, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NORWOOD, Mr. OLVER, Mr. PEARCE, Mr. PITTS, Mr. PLATTS, Mr. PORTER, Mr. PRICE of North Carolina, Ms. PRYCE of Ohio, Mr. PUTNAM, Mr. RAMSTAD, Mr. REGULA, Mr. REICHERT, Mr. REYNOLDS, Mr. ROSKAM, Ms. ROS-LEHTINEN, Mr. RYAN of Wisconsin, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SESSIONS, Mr. SHAYS, Mr. SIMPSON, Ms. SOLIS, Mr. SOUDER, Mr. STARK, Mr. THOMPSON of California, Mr.

TIBERI, Mr. TIERNEY, Mr. UDALL of New Mexico, Mr. UPTON, Mr. VAN HOLLEN, Mr. WALSH of New York, Mr. WAMP, Ms. WATSON, Mr. WAXMAN, Mr. WELLER of Illinois, Mr. WEXLER, Mr. WHITFIELD, Mr. WICKER, Mr. WILSON of South Carolina, Mr. WOLF, Ms. WOOLSEY, Mr. YARMUTH, Mr. YOUNG of Florida, Mr. CROWLEY, Mr. HOLT, Mr. JINDAL, Mr. LATOURETTE, and Mr. TANCREDO) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH --, 2007

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 16, 2007]

A BILL

To prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Ge-*
 5 *netic Information Nondiscrimination Act of 2007”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 7 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

Sec. 101. Amendments to Employee Retirement Income Security Act of 1974.

Sec. 102. Amendments to the Public Health Service Act.

Sec. 103. Amendments to the Internal Revenue Code of 1986.

Sec. 104. Amendments to title XVIII of the Social Security Act relating to
Medigap.

Sec. 105. Privacy and confidentiality.

Sec. 106. Assuring coordination.
Sec. 107. Regulations; effective date.

*TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE
BASIS OF GENETIC INFORMATION*

Sec. 201. Definitions.
Sec. 202. Employer practices.
Sec. 203. Employment agency practices.
Sec. 204. Labor organization practices.
Sec. 205. Training programs.
Sec. 206. Confidentiality of genetic information.
Sec. 207. Remedies and enforcement.
Sec. 208. Disparate impact.
Sec. 209. Construction.
Sec. 210. Medical information that is not genetic information.
Sec. 211. Regulations.
Sec. 212. Authorization of appropriations.
Sec. 213. Effective date.

TITLE III—MISCELLANEOUS PROVISION

Sec. 301. Severability.

1 SEC. 2. FINDINGS.

2 *Congress makes the following findings:*

3 *(1) Deciphering the sequence of the human ge-*
4 *nome and other advances in genetics open major new*
5 *opportunities for medical progress. New knowledge*
6 *about the genetic basis of illness will allow for earlier*
7 *detection of illnesses, often before symptoms have*
8 *begun. Genetic testing can allow individuals to take*
9 *steps to reduce the likelihood that they will contract*
10 *a particular disorder. New knowledge about genetics*
11 *may allow for the development of better therapies that*
12 *are more effective against disease or have fewer side*
13 *effects than current treatments. These advances give*
14 *rise to the potential misuse of genetic information to*
15 *discriminate in health insurance and employment.*

1 (2) *The early science of genetics became the basis*
2 *of State laws that provided for the sterilization of*
3 *persons having presumed genetic “defects” such as*
4 *mental retardation, mental disease, epilepsy, blind-*
5 *ness, and hearing loss, among other conditions. The*
6 *first sterilization law was enacted in the State of In-*
7 *diana in 1907. By 1981, a majority of States adopted*
8 *sterilization laws to “correct” apparent genetic traits*
9 *or tendencies. Many of these State laws have since*
10 *been repealed, and many have been modified to in-*
11 *clude essential constitutional requirements of due*
12 *process and equal protection. However, the current ex-*
13 *pllosion in the science of genetics, and the history of*
14 *sterilization laws by the States based on early genetic*
15 *science, compels Congressional action in this area.*

16 (3) *Although genes are facially neutral markers,*
17 *many genetic conditions and disorders are associated*
18 *with particular racial and ethnic groups and gender.*
19 *Because some genetic traits are most prevalent in*
20 *particular groups, members of a particular group*
21 *may be stigmatized or discriminated against as a re-*
22 *sult of that genetic information. This form of dis-*
23 *crimination was evident in the 1970s, which saw the*
24 *advent of programs to screen and identify carriers of*
25 *sickle cell anemia, a disease which afflicts African-*

1 *Americans. Once again, State legislatures began to*
2 *enact discriminatory laws in the area, and in the*
3 *early 1970s began mandating genetic screening of all*
4 *African Americans for sickle cell anemia, leading to*
5 *discrimination and unnecessary fear. To alleviate*
6 *some of this stigma, Congress in 1972 passed the Na-*
7 *tional Sickle Cell Anemia Control Act, which with-*
8 *holds Federal funding from States unless sickle cell*
9 *testing is voluntary.*

10 (4) *Congress has been informed of examples of*
11 *genetic discrimination in the workplace. These in-*
12 *clude the use of pre-employment genetic screening at*
13 *Lawrence Berkeley Laboratory, which led to a court*
14 *decision in favor of the employees in that case Nor-*
15 *man-Bloodsaw v. Lawrence Berkeley Laboratory (135*
16 *F.3d 1260, 1269 (9th Cir. 1998)). Congress clearly*
17 *has a compelling public interest in relieving the fear*
18 *of discrimination and in prohibiting its actual prac-*
19 *tice in employment and health insurance.*

20 (5) *Federal law addressing genetic discrimina-*
21 *tion in health insurance and employment is incom-*
22 *plete in both the scope and depth of its protections.*
23 *Moreover, while many States have enacted some type*
24 *of genetic non-discrimination law, these laws vary*
25 *widely with respect to their approach, application,*

1 *and level of protection. Congress has collected substan-*
2 *tial evidence that the American public and the med-*
3 *ical community find the existing patchwork of State*
4 *and Federal laws to be confusing and inadequate to*
5 *protect them from discrimination. Therefore Federal*
6 *legislation establishing a national and uniform basic*
7 *standard is necessary to fully protect the public from*
8 *discrimination and allay their concerns about the po-*
9 *tential for discrimination, thereby allowing individ-*
10 *uals to take advantage of genetic testing, technologies,*
11 *research, and new therapies.*

12 **TITLE I—GENETIC NON-**
13 **DISCRIMINATION IN HEALTH**
14 **INSURANCE**

15 **SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT IN-**
16 **COME SECURITY ACT OF 1974.**

17 *(a) PROHIBITION OF HEALTH DISCRIMINATION ON*
18 *THE BASIS OF GENETIC INFORMATION OR GENETIC SERV-*
19 *ICES.—*

20 *(1) NO ENROLLMENT RESTRICTION FOR GENETIC*
21 *SERVICES.—Section 702(a)(1)(F) of the Employee Re-*
22 *irement Income Security Act of 1974 (29 U.S.C.*
23 *1182(a)(1)(F)) is amended by inserting before the pe-*
24 *riod the following: “(including information about a*

1 *request for or receipt of genetic services by an indi-*
2 *vidual or family member of such individual)”.*

3 (2) *NO DISCRIMINATION IN GROUP PREMIUMS*
4 *BASED ON GENETIC INFORMATION.—Section 702(b) of*
5 *the Employee Retirement Income Security Act of*
6 *1974 (29 U.S.C. 1182(b)) is amended—*

7 (A) *in paragraph (2)(A), by inserting before*
8 *the semicolon the following: “except as provided*
9 *in paragraph (3)”;* and

10 (B) *by adding at the end the following:*

11 “(3) *NO DISCRIMINATION IN GROUP PREMIUMS*
12 *BASED ON GENETIC INFORMATION.—For purposes of*
13 *this section, a group health plan, or a health insur-*
14 *ance issuer offering group health insurance coverage*
15 *in connection with a group health plan, shall not ad-*
16 *just premium or contribution amounts for a group on*
17 *the basis of genetic information concerning an indi-*
18 *vidual in the group or a family member of the indi-*
19 *vidual (including information about a request for or*
20 *receipt of genetic services by an individual or family*
21 *member of such individual).”.*

22 (b) *LIMITATIONS ON GENETIC TESTING.—Section 702*
23 *of the Employee Retirement Income Security Act of 1974*
24 *(29 U.S.C. 1182) is amended by adding at the end the fol-*
25 *lowing:*

1 “(c) *GENETIC TESTING.*—

2 “(1) *LIMITATION ON REQUESTING OR REQUIRING*
3 *GENETIC TESTING.*—*A group health plan, or a health*
4 *insurance issuer offering health insurance coverage in*
5 *connection with a group health plan, shall not request*
6 *or require an individual or a family member of such*
7 *individual to undergo a genetic test.*

8 “(2) *RULE OF CONSTRUCTION.*—*Nothing in this*
9 *part shall be construed to—*

10 “(A) *limit the authority of a health care*
11 *professional who is providing health care services*
12 *with respect to an individual to request that*
13 *such individual or a family member of such in-*
14 *dividual undergo a genetic test;*

15 “(B) *limit the authority of a health care*
16 *professional who is employed by or affiliated*
17 *with a group health plan or a health insurance*
18 *issuer and who is providing health care services*
19 *to an individual as part of a bona fide wellness*
20 *program to notify such individual of the avail-*
21 *ability of a genetic test or to provide information*
22 *to such individual regarding such genetic test; or*

23 “(C) *authorize or permit a health care pro-*
24 *fessional to require that an individual undergo a*
25 *genetic test.*

1 “(d) *APPLICATION TO ALL PLANS.*—The provisions of
2 *subsections (a)(1)(F), (b)(3), and (c) shall apply to group*
3 *health plans and health insurance issuers without regard*
4 *to section 732(a).”.*

5 (c) *REMEDIES AND ENFORCEMENT.*—Section 502 of
6 *the Employee Retirement Income Security Act of 1974 (29*
7 *U.S.C. 1132) is amended by adding at the end the following:*

8 “(n) *ENFORCEMENT OF GENETIC NONDISCRIMINATION*
9 *REQUIREMENTS.*—

10 “(1) *INJUNCTIVE RELIEF FOR IRREPARABLE*
11 *HARM.*—With respect to any violation of subsection
12 *(a)(1)(F), (b)(3), or (c) of section 702, a participant*
13 *or beneficiary may seek relief under subsection*
14 *502(a)(1)(B) prior to the exhaustion of available ad-*
15 *ministrative remedies under section 503 if it is dem-*
16 *onstrated to the court, by a preponderance of the evi-*
17 *dence, that the exhaustion of such remedies would*
18 *cause irreparable harm to the health of the partici-*
19 *part or beneficiary. Any determinations that already*
20 *have been made under section 503 in such case, or*
21 *that are made in such case while an action under this*
22 *paragraph is pending, shall be given due consider-*
23 *ation by the court in any action under this subsection*
24 *in such case.*

1 “(2) *EQUITABLE RELIEF FOR GENETIC NON-*
2 *DISCRIMINATION.*—

3 “(A) *REINSTATEMENT OF BENEFITS WHERE*
4 *EQUITABLE RELIEF HAS BEEN AWARDED.*—*The*
5 *recovery of benefits by a participant or bene-*
6 *ficiary under a civil action under this section*
7 *may include an administrative penalty under*
8 *subparagraph (B) and the retroactive reinstatement*
9 *of coverage under the plan involved to the*
10 *date on which the participant or beneficiary was*
11 *denied eligibility for coverage if—*

12 “(i) *the civil action was commenced*
13 *under subsection (a)(1)(B); and*

14 “(ii) *the denial of coverage on which*
15 *such civil action was based constitutes a*
16 *violation of subsection (a)(1)(F), (b)(3), or*
17 *(c) of section 702.*

18 “(B) *ADMINISTRATIVE PENALTY.*—

19 “(i) *IN GENERAL.*—*An administrator*
20 *who fails to comply with the requirements*
21 *of subsection (a)(1)(F), (b)(3), or (c) of sec-*
22 *tion 702 with respect to a participant or*
23 *beneficiary may, in an action commenced*
24 *under subsection (a)(1)(B), be personally*
25 *liable in the discretion of the court, for a*

1 *penalty in the amount not more than \$100*
2 *for each day in the noncompliance period.*

3 *“(i) NONCOMPLIANCE PERIOD.—For*
4 *purposes of clause (i), the term ‘noncompli-*
5 *ance period’ means the period—*

6 *“(I) beginning on the date that a*
7 *failure described in clause (i) occurs;*
8 *and*

9 *“(II) ending on the date that such*
10 *failure is corrected.*

11 *“(iii) PAYMENT TO PARTICIPANT OR*
12 *BENEFICIARY.—A penalty collected under*
13 *this subparagraph shall be paid to the par-*
14 *ticipant or beneficiary involved.*

15 *“(3) SECRETARIAL ENFORCEMENT AUTHORITY.—*

16 *“(A) GENERAL RULE.—The Secretary has*
17 *the authority to impose a penalty on any failure*
18 *of a group health plan to meet the requirements*
19 *of subsection (a)(1)(F), (b)(3), or (c) of section*
20 *702.*

21 *“(B) AMOUNT.—*

22 *“(i) IN GENERAL.—The amount of the*
23 *penalty imposed by subparagraph (A) shall*
24 *be \$100 for each day in the noncompliance*

1 *period with respect to each individual to*
2 *whom such failure relates.*

3 “(ii) *NONCOMPLIANCE PERIOD.*—*For*
4 *purposes of this paragraph, the term ‘non-*
5 *compliance period’ means, with respect to*
6 *any failure, the period—*

7 “(I) *beginning on the date such*
8 *failure first occurs; and*

9 “(II) *ending on the date such fail-*
10 *ure is corrected.*

11 “(C) *MINIMUM PENALTIES WHERE FAILURE*
12 *DISCOVERED.*—*Notwithstanding clauses (i) and*
13 *(ii) of subparagraph (D):*

14 “(i) *IN GENERAL.*—*In the case of 1 or*
15 *more failures with respect to an indi-*
16 *vidual—*

17 “(I) *which are not corrected before*
18 *the date on which the plan receives a*
19 *notice from the Secretary of such viola-*
20 *tion; and*

21 “(II) *which occurred or continued*
22 *during the period involved;*

23 *the amount of penalty imposed by subpara-*
24 *graph (A) by reason of such failures with*

1 *respect to such individual shall not be less*
2 *than \$2,500.*

3 “(i) *HIGHER MINIMUM PENALTY*
4 *WHERE VIOLATIONS ARE MORE THAN DE*
5 *MINIMIS.—To the extent violations for*
6 *which any person is liable under this para-*
7 *graph for any year are more than de mini-*
8 *mis, clause (i) shall be applied by sub-*
9 *stituting ‘\$15,000’ for ‘\$2,500’ with respect*
10 *to such person.*

11 “(D) *LIMITATIONS.—*

12 “(i) *PENALTY NOT TO APPLY WHERE*
13 *FAILURE NOT DISCOVERED EXERCISING*
14 *REASONABLE DILIGENCE.—No penalty shall*
15 *be imposed by subparagraph (A) on any*
16 *failure during any period for which it is es-*
17 *tablished to the satisfaction of the Secretary*
18 *that the person otherwise liable for such*
19 *penalty did not know, and exercising rea-*
20 *sonable diligence would not have known,*
21 *that such failure existed.*

22 “(i) *PENALTY NOT TO APPLY TO FAIL-*
23 *URES CORRECTED WITHIN CERTAIN PERI-*
24 *ODS.—No penalty shall be imposed by sub-*
25 *paragraph (A) on any failure if—*

1 “(I) such failure was due to rea-
2 sonable cause and not to willful ne-
3 glect; and

4 “(II) such failure is corrected dur-
5 ing the 30-day period beginning on the
6 first date the person otherwise liable
7 for such penalty knew, or exercising
8 reasonable diligence would have known,
9 that such failure existed.

10 “(iii) *OVERALL LIMITATION FOR UNIN-*
11 *TENTIONAL FAILURES.—In the case of fail-*
12 *ures which are due to reasonable cause and*
13 *not to willful neglect, the penalty imposed*
14 *by subparagraph (A) for failures shall not*
15 *exceed the amount equal to the lesser of—*

16 “(I) 10 percent of the aggregate
17 amount paid or incurred by the em-
18 ployer (or predecessor employer) dur-
19 ing the preceding taxable year for
20 group health plans; or

21 “(II) \$500,000.

22 “(E) *WAIVER BY SECRETARY.—In the case*
23 *of a failure which is due to reasonable cause and*
24 *not to willful neglect, the Secretary may waive*
25 *part or all of the penalty imposed by subpara-*

1 *graph (A) to the extent that the payment of such*
2 *penalty would be excessive relative to the failure*
3 *involved.”.*

4 *(d) DEFINITIONS.—Section 733(d) of the Employee*
5 *Retirement Income Security Act of 1974 (29 U.S.C.*
6 *1191b(d)) is amended by adding at the end the following:*

7 “*(5) FAMILY MEMBER.—The term ‘family mem-*
8 *ber’ means with respect to an individual—*

9 “*(A) the spouse of the individual;*

10 “*(B) a dependent child of the individual,*
11 *including a child who is born to or placed for*
12 *adoption with the individual; and*

13 “*(C) all other individuals related by blood*
14 *to the individual or the spouse or child described*
15 *in subparagraph (A) or (B).*

16 “*(6) GENETIC INFORMATION.—*

17 “*(A) IN GENERAL.—Except as provided in*
18 *subparagraph (B), the term ‘genetic information’*
19 *means information about—*

20 “*(i) an individual’s genetic tests;*

21 “*(ii) the genetic tests of family mem-*
22 *bers of the individual; or*

23 “*(iii) the occurrence of a disease or*
24 *disorder in family members of the indi-*
25 *vidual.*

1 “(B) *EXCLUSIONS.*—*The term ‘genetic in-*
2 *formation’ shall not include information about*
3 *the sex or age of an individual.*

4 “(7) *GENETIC TEST.*—

5 “(A) *IN GENERAL.*—*The term ‘genetic test’*
6 *means an analysis of human DNA, RNA, chro-*
7 *mosomes, proteins, or metabolites, that detects*
8 *genotypes, mutations, or chromosomal changes.*

9 “(B) *EXCEPTIONS.*—*The term ‘genetic test’*
10 *does not mean—*

11 “(i) *an analysis of proteins or metabo-*
12 *lites that does not detect genotypes,*
13 *mutations, or chromosomal changes; or*

14 “(ii) *an analysis of proteins or me-*
15 *tabolites that is directly related to a mani-*
16 *fested disease, disorder, or pathological con-*
17 *dition that could reasonably be detected by*
18 *a health care professional with appropriate*
19 *training and expertise in the field of medi-*
20 *cine involved.*

21 “(8) *GENETIC SERVICES.*—*The term ‘genetic*
22 *services’ means—*

23 “(A) *a genetic test;*

1 1(a)(1)(F)) is amended by inserting before the
2 period the following: “(including information
3 about a request for or receipt of genetic services
4 by an individual or family member of such indi-
5 vidual)”.

6 (B) NO DISCRIMINATION IN GROUP PRE-
7 MIUMS BASED ON GENETIC INFORMATION.—Sec-
8 tion 2702(b) of the Public Health Service Act (42
9 U.S.C. 300gg-1(b)) is amended—

10 (i) in paragraph (2)(A), by inserting
11 before the semicolon the following: “, except
12 as provided in paragraph (3)”;

13 (ii) by adding at the end the following:

14 “(3) NO DISCRIMINATION IN GROUP PREMIUMS
15 BASED ON GENETIC INFORMATION.—For purposes of
16 this section, a group health plan, or a health insur-
17 ance issuer offering group health insurance coverage
18 in connection with a group health plan, shall not ad-
19 just premium or contribution amounts for a group on
20 the basis of genetic information concerning an indi-
21 vidual in the group or a family member of the indi-
22 vidual (including information about a request for or
23 receipt of genetic services by an individual or family
24 member of such individual).”.

1 (2) *LIMITATIONS ON GENETIC TESTING.*—Section
2 2702 of the Public Health Service Act (42 U.S.C.
3 300gg–1) is amended by adding at the end the fol-
4 lowing:

5 “(c) *GENETIC TESTING.*—

6 “(1) *LIMITATION ON REQUESTING OR REQUIRING*
7 *GENETIC TESTING.*—A group health plan, or a health
8 insurance issuer offering health insurance coverage in
9 connection with a group health plan, shall not request
10 or require an individual or a family member of such
11 individual to undergo a genetic test.

12 “(2) *RULE OF CONSTRUCTION.*—Nothing in this
13 part shall be construed to—

14 “(A) limit the authority of a health care
15 professional who is providing health care services
16 with respect to an individual to request that
17 such individual or a family member of such in-
18 dividual undergo a genetic test;

19 “(B) limit the authority of a health care
20 professional who is employed by or affiliated
21 with a group health plan or a health insurance
22 issuer and who is providing health care services
23 to an individual as part of a bona fide wellness
24 program to notify such individual of the avail-

1 *ability of a genetic test or to provide information*
2 *to such individual regarding such genetic test; or*

3 “(C) *authorize or permit a health care pro-*
4 *fessional to require that an individual undergo a*
5 *genetic test.*”

6 “(d) *APPLICATION TO ALL PLANS.—The provisions of*
7 *subsections (a)(1)(F), (b)(3), and (c) shall apply to group*
8 *health plans and health insurance issuers without regard*
9 *to section 2721(a).”.*

10 (3) *REMEDIES AND ENFORCEMENT.—Section*
11 *2722(b) of the Public Health Service Act (42 U.S.C.*
12 *300gg-22(b)) is amended by adding at the end the fol-*
13 *lowing:*

14 “(3) *ENFORCEMENT AUTHORITY RELATING TO*
15 *GENETIC DISCRIMINATION.—*

16 “(A) *GENERAL RULE.—In the cases de-*
17 *scribed in paragraph (1), notwithstanding the*
18 *provisions of paragraph (2)(C), the following*
19 *provisions shall apply with respect to an action*
20 *under this subsection by the Secretary with re-*
21 *spect to any failure of a health insurance issuer*
22 *in connection with a group health plan, to meet*
23 *the requirements of subsection (a)(1)(F), (b)(3),*
24 *or (c) of section 2702.*

25 “(B) *AMOUNT.—*

1 “(i) *IN GENERAL.*—*The amount of the*
2 *penalty imposed under this paragraph shall*
3 *be \$100 for each day in the noncompliance*
4 *period with respect to each individual to*
5 *whom such failure relates.*

6 “(ii) *NONCOMPLIANCE PERIOD.*—*For*
7 *purposes of this paragraph, the term ‘non-*
8 *compliance period’ means, with respect to*
9 *any failure, the period—*

10 “(I) *beginning on the date such*
11 *failure first occurs; and*

12 “(II) *ending on the date such fail-*
13 *ure is corrected.*

14 “(C) *MINIMUM PENALTIES WHERE FAILURE*
15 *DISCOVERED.*—*Notwithstanding clauses (i) and*
16 *(ii) of subparagraph (D):*

17 “(i) *IN GENERAL.*—*In the case of 1 or*
18 *more failures with respect to an indi-*
19 *vidual—*

20 “(I) *which are not corrected before*
21 *the date on which the plan receives a*
22 *notice from the Secretary of such viola-*
23 *tion; and*

24 “(II) *which occurred or continued*
25 *during the period involved;*

1 *the amount of penalty imposed by subpara-*
2 *graph (A) by reason of such failures with*
3 *respect to such individual shall not be less*
4 *than \$2,500.*

5 “(i) *HIGHER MINIMUM PENALTY*
6 *WHERE VIOLATIONS ARE MORE THAN DE*
7 *MINIMIS.—To the extent violations for*
8 *which any person is liable under this para-*
9 *graph for any year are more than de mini-*
10 *mis, clause (i) shall be applied by sub-*
11 *stituting ‘\$15,000’ for ‘\$2,500’ with respect*
12 *to such person.*

13 “(D) *LIMITATIONS.—*

14 “(i) *PENALTY NOT TO APPLY WHERE*
15 *FAILURE NOT DISCOVERED EXERCISING*
16 *REASONABLE DILIGENCE.—No penalty shall*
17 *be imposed by subparagraph (A) on any*
18 *failure during any period for which it is es-*
19 *tablished to the satisfaction of the Secretary*
20 *that the person otherwise liable for such*
21 *penalty did not know, and exercising rea-*
22 *sonable diligence would not have known,*
23 *that such failure existed.*

24 “(ii) *PENALTY NOT TO APPLY TO FAIL-*
25 *URES CORRECTED WITHIN CERTAIN PERI-*

1 *ODS.—No penalty shall be imposed by sub-*
2 *paragraph (A) on any failure if—*

3 *“(I) such failure was due to rea-*
4 *sonable cause and not to willful ne-*
5 *glect; and*

6 *“(II) such failure is corrected dur-*
7 *ing the 30-day period beginning on the*
8 *first date the person otherwise liable*
9 *for such penalty knew, or exercising*
10 *reasonable diligence would have known,*
11 *that such failure existed.*

12 *“(iii) OVERALL LIMITATION FOR UNIN-*
13 *TENTIONAL FAILURES.—In the case of fail-*
14 *ures which are due to reasonable cause and*
15 *not to willful neglect, the penalty imposed*
16 *by subparagraph (A) for failures shall not*
17 *exceed the amount equal to the lesser of—*

18 *“(I) 10 percent of the aggregate*
19 *amount paid or incurred by the em-*
20 *ployer (or predecessor employer) dur-*
21 *ing the preceding taxable year for*
22 *group health plans; or*

23 *“(II) \$500,000.*

24 *“(E) WAIVER BY SECRETARY.—In the case*
25 *of a failure which is due to reasonable cause and*

1 *not to willful neglect, the Secretary may waive*
2 *part or all of the penalty imposed by subpara-*
3 *graph (A) to the extent that the payment of such*
4 *penalty would be excessive relative to the failure*
5 *involved.”.*

6 (4) *DEFINITIONS.—Section 2791(d) of the Public*
7 *Health Service Act (42 U.S.C. 300gg–91(d)) is*
8 *amended by adding at the end the following:*

9 “(15) *FAMILY MEMBER.—The term ‘family mem-*
10 *ber’ means with respect to an individual—*

11 “(A) *the spouse of the individual;*

12 “(B) *a dependent child of the individual,*
13 *including a child who is born to or placed for*
14 *adoption with the individual; and*

15 “(C) *all other individuals related by blood*
16 *to the individual or the spouse or child described*
17 *in subparagraph (A) or (B).*

18 “(16) *GENETIC INFORMATION.—*

19 “(A) *IN GENERAL.—Except as provided in*
20 *subparagraph (B), the term ‘genetic information’*
21 *means information about—*

22 “(i) *an individual’s genetic tests;*

23 “(ii) *the genetic tests of family mem-*
24 *bers of the individual; or*

1 “(iii) the occurrence of a disease or
2 disorder in family members of the indi-
3 vidual.

4 “(B) *EXCLUSIONS.*—The term ‘genetic in-
5 formation’ shall not include information about
6 the sex or age of an individual.

7 “(17) *GENETIC TEST.*—

8 “(A) *IN GENERAL.*—The term ‘genetic test’
9 means an analysis of human DNA, RNA, chro-
10 mosomes, proteins, or metabolites, that detects
11 genotypes, mutations, or chromosomal changes.

12 “(B) *EXCEPTIONS.*—The term ‘genetic test’
13 does not mean—

14 “(i) an analysis of proteins or metabo-
15 lites that does not detect genotypes,
16 mutations, or chromosomal changes; or

17 “(ii) an analysis of proteins or me-
18 tabolites that is directly related to a mani-
19 fested disease, disorder, or pathological con-
20 dition that could reasonably be detected by
21 a health care professional with appropriate
22 training and expertise in the field of medi-
23 cine involved.

24 “(18) *GENETIC SERVICES.*—The term ‘genetic
25 services’ means—

1 “(A) a genetic test;

2 “(B) genetic counseling (such as obtaining,
3 interpreting, or assessing genetic information);

4 or

5 “(C) genetic education.”.

6 (b) *AMENDMENT RELATING TO THE INDIVIDUAL MAR-*
7 *KET.*—

8 (1) *IN GENERAL.*—*The first subpart 3 of part B*
9 *of title XXVII of the Public Health Service Act (42*
10 *U.S.C. 300gg–51 et seq.) (relating to other require-*
11 *ments) is amended—*

12 (A) by redesignating such subpart as sub-
13 part 2; and

14 (B) by adding at the end the following:

15 **“SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON**
16 **THE BASIS OF GENETIC INFORMATION.**

17 “(a) *PROHIBITION ON GENETIC INFORMATION AS A*
18 *CONDITION OF ELIGIBILITY.*—*A health insurance issuer of-*
19 *fering health insurance coverage in the individual market*
20 *may not establish rules for the eligibility (including contin-*
21 *ued eligibility) of any individual to enroll in individual*
22 *health insurance coverage based on genetic information (in-*
23 *cluding information about a request for or receipt of genetic*
24 *services by an individual or family member of such indi-*
25 *vidual).*

1 “(b) *PROHIBITION ON GENETIC INFORMATION IN SET-*
2 *TING PREMIUM RATES.*—*A health insurance issuer offering*
3 *health insurance coverage in the individual market shall*
4 *not adjust premium or contribution amounts for an indi-*
5 *vidual on the basis of genetic information concerning the*
6 *individual or a family member of the individual (including*
7 *information about a request for or receipt of genetic services*
8 *by an individual or family member of such individual).*

9 “(c) *GENETIC TESTING.*—

10 “(1) *LIMITATION ON REQUESTING OR REQUIRING*
11 *GENETIC TESTING.*—*A health insurance issuer offer-*
12 *ing health insurance coverage in the individual mar-*
13 *ket shall not request or require an individual or a*
14 *family member of such individual to undergo a ge-*
15 *netic test.*

16 “(2) *RULE OF CONSTRUCTION.*—*Nothing in this*
17 *part shall be construed to—*

18 “(A) *limit the authority of a health care*
19 *professional who is providing health care services*
20 *with respect to an individual to request that*
21 *such individual or a family member of such in-*
22 *dividual undergo a genetic test;*

23 “(B) *limit the authority of a health care*
24 *professional who is employed by or affiliated*
25 *with a health insurance issuer and who is pro-*

1 *viding health care services to an individual as*
2 *part of a bona fide wellness program to notify*
3 *such individual of the availability of a genetic*
4 *test or to provide information to such individual*
5 *regarding such genetic test; or*

6 *“(C) authorize or permit a health care pro-*
7 *fessional to require that an individual undergo a*
8 *genetic test.”.*

9 *(2) REMEDIES AND ENFORCEMENT.—Section*
10 *2761(b) of the Public Health Service Act (42 U.S.C.*
11 *300gg–61(b)) is amended to read as follows:*

12 *“(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The*
13 *Secretary shall have the same authority in relation to en-*
14 *forcement of the provisions of this part with respect to*
15 *issuers of health insurance coverage in the individual mar-*
16 *ket in a State as the Secretary has under section 2722(b)(2),*
17 *and section 2722(b)(3) with respect to violations of genetic*
18 *nondiscrimination provisions, in relation to the enforce-*
19 *ment of the provisions of part A with respect to issuers of*
20 *health insurance coverage in the small group market in the*
21 *State.”.*

22 *(c) ELIMINATION OF OPTION OF NON-FEDERAL GOV-*
23 *ERNMENTAL PLANS TO BE EXCEPTED FROM REQUIRE-*
24 *MENTS CONCERNING GENETIC INFORMATION.—Section*

1 *2721(b)(2) of the Public Health Service Act (42 U.S.C.*
2 *300gg-21(b)(2)) is amended—*

3 *(1) in subparagraph (A), by striking “If the*
4 *plan sponsor” and inserting “Except as provided in*
5 *subparagraph (D), if the plan sponsor”; and*

6 *(2) by adding at the end the following:*

7 *“(D) ELECTION NOT APPLICABLE TO RE-*
8 *QUIREMENTS CONCERNING GENETIC INFORMA-*
9 *TION.—The election described in subparagraph*
10 *(A) shall not be available with respect to the pro-*
11 *visions of subsections (a)(1)(F) and (c) of section*
12 *2702 and the provisions of section 2702(b) to the*
13 *extent that such provisions apply to genetic in-*
14 *formation (or information about a request for or*
15 *the receipt of genetic services by an individual or*
16 *a family member of such individual).”.*

17 *(d) REGULATIONS AND EFFECTIVE DATE.—*

18 *(1) REGULATIONS.—Not later than 1 year after*
19 *the date of enactment of this title, the Secretary of*
20 *Labor and the Secretary of Health and Human Serv-*
21 *ices (as the case may be) shall issue final regulations*
22 *in an accessible format to carry out the amendments*
23 *made by this section.*

24 *(2) EFFECTIVE DATE.—The amendments made*
25 *by this section shall apply—*

1 **(b) LIMITATIONS ON GENETIC TESTING AND COLLEC-**
2 **TION OF GENETIC INFORMATION.**—*Section 9802 of such*
3 *Code is amended by redesignating subsection (c) as sub-*
4 *section (f) and by inserting after subsection (b) the fol-*
5 *lowing new subsections:*

6 **“(c) GENETIC TESTING.**—

7 **“(1) LIMITATION ON REQUESTING OR REQUIRING**
8 **GENETIC TESTING.**—*A group health plan may not re-*
9 *quest or require an individual or a family member of*
10 *such individual to undergo a genetic test.*

11 **“(2) EXCEPTION FOR HEALTH CARE PROFES-**
12 **SIONALS.**—*Paragraph (1) shall not be construed to*
13 *limit the authority of a health care professional who*
14 *is providing health care services to an individual to*
15 *request that such individual undergo a genetic test.*

16 **“(3) PROVISION OF INFORMATION NOT PROHIB-**
17 **ITED.**—*Paragraph (1) shall not be construed to limit*
18 *the authority of a group health plan—*

19 **“(A) to provide information generally about**
20 **the availability of genetic tests, or**

21 **“(B) to provide information about genetic**
22 **tests to a health care professional with respect to**
23 **the treatment of an individual to whom such**
24 **professional is providing health care services.**

1 “(d) *PROHIBITION ON COLLECTION OF GENETIC IN-*
2 *FORMATION.—*—

3 “(1) *IN GENERAL.—A group health plan shall*
4 *not request, require, or purchase genetic information*
5 *for purposes of underwriting (as defined in section*
6 *9832).*

7 “(2) *PROHIBITION ON COLLECTION OF GENETIC*
8 *INFORMATION PRIOR TO ENROLLMENT.—A group*
9 *health plan shall not request, require, or purchase ge-*
10 *netic information with respect to any individual*
11 *prior to such individual’s enrollment under the plan*
12 *or in connection with such enrollment.*

13 “(3) *INCIDENTAL COLLECTION.—If a group*
14 *health plan obtains genetic information incidental to*
15 *the requesting, requiring, or purchasing of other in-*
16 *formation concerning any individual, such request,*
17 *requirement, or purchase shall not be considered a*
18 *violation of paragraph (2) if such request, require-*
19 *ment, or purchase is not in violation of paragraph*
20 *(1).*

21 “(e) *APPLICATION TO ALL PLANS.—The provisions of*
22 *subsections (a)(1)(F), (b)(3), (c), and (d) shall apply to*
23 *group health plans without regard to section 9831(a).”.*

24 “(c) *DEFINITIONS.—Subsection (d) of section 9832 of*
25 *such Code is amended by adding at the end the following:*

1 “(6) *FAMILY MEMBER.*—*The term ‘family mem-*
2 *ber’ means, with respect to any individual—*

3 “(A) *a dependent (as such term is used for*
4 *purposes of section 9801(f)(2)) of such indi-*
5 *vidual, and*

6 “(B) *any other individual who is a first-de-*
7 *gree, second-degree, third-degree, or fourth-degree*
8 *relative of such individual or of an individual*
9 *described in subparagraph (A).*

10 “(7) *GENETIC INFORMATION.*—

11 “(A) *IN GENERAL.*—*The term ‘genetic infor-*
12 *mation’ means, with respect to any individual,*
13 *information about—*

14 “(i) *such individual’s genetic tests,*

15 “(ii) *the genetic tests of family mem-*
16 *bers of such individual, and*

17 “(iii) *the occurrence of a disease or*
18 *disorder in family members of such indi-*
19 *vidual.*

20 “(B) *INCLUSION OF GENETIC SERVICES AND*
21 *PARTICIPATION IN GENETIC RESEARCH.*—*Such*
22 *term includes, with respect to any individual,*
23 *any request for genetic services, receipt of genetic*
24 *services, or participation in any clinical re-*
25 *search, or any other program, which includes ge-*

1 *netic services, by such individual or any family*
2 *member of such individual.*

3 “(C) *EXCLUSIONS.*—*The term ‘genetic infor-*
4 *mation’ shall not include information about the*
5 *sex or age of any individual.*

6 “(D) *APPLICATION TO FAMILY MEMBERS*
7 *COVERED UNDER SAME PLAN.*—*Information de-*
8 *scribed in clause (iii) of subparagraph (A) shall*
9 *not be treated as genetic information to the ex-*
10 *tent that such information is taken into account*
11 *only with respect to the individual in which such*
12 *disease or disorder occurs and not as genetic in-*
13 *formation with respect to any other individual.*

14 “(8) *GENETIC TEST.*—

15 “(A) *IN GENERAL.*—*The term ‘genetic test’*
16 *means an analysis of human DNA, RNA, chro-*
17 *mosomes, proteins, or metabolites, that detects*
18 *genotypes, mutations, or chromosomal changes.*

19 “(B) *EXCEPTIONS.*—*The term ‘genetic test’*
20 *does not mean—*

21 “(i) *an analysis of proteins or metabo-*
22 *lites that does not detect genotypes,*
23 *mutations, or chromosomal changes, or*

24 “(ii) *an analysis of proteins or me-*
25 *tabolites that is directly related to a mani-*

1 *fested disease, disorder, or pathological con-*
2 *dition that could reasonably be detected by*
3 *a health care professional with appropriate*
4 *training and expertise in the field of medi-*
5 *cine involved.*

6 “(9) *GENETIC SERVICES.*—*The term ‘genetic*
7 *services’ means—*

8 “(A) *a genetic test,*

9 “(B) *genetic counseling (such as obtaining,*
10 *interpreting, or assessing genetic information),*
11 *and*

12 “(C) *genetic education.*

13 “(10) *UNDERWRITING.*—*The term ‘underwriting’*
14 *means, with respect to any group health plan—*

15 “(A) *rules for eligibility (including enroll-*
16 *ment and continued eligibility) for, or deter-*
17 *mination of, benefits under the plan,*

18 “(B) *the computation of premium or con-*
19 *tribution amounts under the plan,*

20 “(C) *the application of any pre-existing*
21 *condition exclusion under the plan, and*

22 “(D) *other activities related to the creation,*
23 *renewal, or replacement of a contract of health*
24 *insurance or health benefits.”.*

25 (d) *ENFORCEMENT.*—

1 (1) *IN GENERAL.*—Subchapter C of chapter 100
2 of the Internal Revenue Code of 1986 (relating to gen-
3 eral provisions) is amended by adding at the end the
4 following new section:

5 **“SEC. 9834. ENFORCEMENT.**

6 *“For the imposition of tax on any failure of a group*
7 *health plan to meet the requirements of this chapter, see*
8 *section 4980D.”.*

9 (2) *CONFORMING AMENDMENT.*—The table of sec-
10 tions for subchapter C of chapter 100 of such Code is
11 amended by adding at the end the following new item:

“Sec. 9834. Enforcement.”.

12 (e) *REGULATIONS AND EFFECTIVE DATE.*—

13 (1) *REGULATIONS.*—The Secretary of the Treas-
14 ury shall issue regulations or other guidance not later
15 than 1 year after the date of the enactment of this Act
16 to carry out the amendments made by this section.

17 (2) *EFFECTIVE DATE.*—The amendments made
18 by this section shall apply with respect to group
19 health plans for plan years beginning after the date
20 that is 18 months after the date of the enactment of
21 this Act.

1 **SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SE-**
2 **CURITY ACT RELATING TO MEDIGAP.**

3 (a) *NONDISCRIMINATION.*—Section 1882(s)(2) of the
4 *Social Security Act (42 U.S.C. 1395ss(s)(2))* is amended
5 *by adding at the end the following:*

6 “(E) *An issuer of a medicare supplemental policy shall*
7 *not deny or condition the issuance or effectiveness of the*
8 *policy (including the imposition of any exclusion of benefits*
9 *under the policy based on a pre-existing condition) and*
10 *shall not discriminate in the pricing of the policy (includ-*
11 *ing the adjustment of premium rates) of an individual on*
12 *the basis of the genetic information with respect to such in-*
13 *dividual.*”.

14 (b) *LIMITATIONS ON GENETIC TESTING AND COLLEC-*
15 *TION OF GENETIC INFORMATION.*—

16 (1) *IN GENERAL.*—Section 1882 of the *Social Se-*
17 *curity Act (42 U.S.C. 1395ss)* is amended *by adding*
18 *at the end the following:*

19 “(x) *LIMITATIONS ON GENETIC TESTING AND COLLEC-*
20 *TION OF GENETIC INFORMATION.*—

21 “(1) *GENETIC TESTING.*—

22 “(A) *LIMITATION ON REQUESTING OR RE-*
23 *QUIRING GENETIC TESTING.*—*An issuer of a*
24 *medicare supplemental policy shall not request*
25 *or require an individual or a family member of*
26 *such individual to undergo a genetic test.*

1 “(B) *EXCEPTION FOR HEALTH CARE PRO-*
2 *FESSIONALS.—Subparagraph (A) shall not be*
3 *construed to limit the authority of a health care*
4 *professional who is providing health care services*
5 *to an individual to request that such individual*
6 *undergo a genetic test.*

7 “(C) *PROVISION OF INFORMATION NOT PRO-*
8 *HIBITED.—Subparagraph (A) shall not be con-*
9 *strued to limit the authority of an issuer of a*
10 *medicare supplemental policy—*

11 “(i) *to provide information generally*
12 *about the availability of genetic tests, or*

13 “(ii) *to provide information about ge-*
14 *netic tests to a health care professional with*
15 *respect to the treatment of an individual to*
16 *whom such professional is providing health*
17 *care services.*

18 “(2) *PROHIBITION ON COLLECTION OF GENETIC*
19 *INFORMATION.—*

20 “(A) *IN GENERAL.—An issuer of a medicare*
21 *supplemental policy shall not request, require, or*
22 *purchase genetic information for purposes of un-*
23 *derwriting.*

24 “(B) *LIMITATION RELATING TO THE COL-*
25 *LECTION OF GENETIC INFORMATION PRIOR TO*

1 *ENROLLMENT.—An issuer of a medicare supple-*
2 *mental policy shall not request, require, or pur-*
3 *chase genetic information concerning any indi-*
4 *vidual prior to such individual’s enrollment*
5 *under the policy or in connection with such en-*
6 *rollment.*

7 “(C) *INCIDENTAL COLLECTION.—Where an*
8 *issuer of a medicare supplemental policy obtains*
9 *genetic information incidental to the requesting,*
10 *requiring, or purchasing of other information*
11 *concerning an enrollee, such request, require-*
12 *ment, or purchase shall not be considered a vio-*
13 *lation of this paragraph if such request, require-*
14 *ment, or purchase is not in violation of subpara-*
15 *graph (A).*

16 “(3) *DEFINITIONS.—In this subsection and sub-*
17 *section (s)(2)(E):*

18 “(A) *FAMILY MEMBER.—The term ‘family*
19 *member’ means, with respect to any individual,*
20 *any individual who is a first-degree, second-de-*
21 *gree, third-degree, or fourth-degree relative of*
22 *such individual.*

23 “(B) *GENETIC INFORMATION.—*

1 “(i) *IN GENERAL.*—*The term ‘genetic*
2 *information’ means, with respect to any in-*
3 *dividual, information about—*

4 “(I) *such individual’s genetic*
5 *tests;*

6 “(II) *the genetic tests of family*
7 *members of such individual; and*

8 “(III) *the occurrence of a disease*
9 *or disorder in family members of such*
10 *individual.*

11 “(ii) *INCLUSION OF GENETIC SERVICES*
12 *AND PARTICIPATION IN GENETIC RE-*
13 *SEARCH.*—*Such term includes, with respect*
14 *to any individual, any request for genetic*
15 *services, receipt of genetic services, or par-*
16 *ticipation in any clinical research, or any*
17 *other program, which includes genetic serv-*
18 *ices, by such individual or any family*
19 *member of such individual.*

20 “(iii) *EXCLUSIONS.*—*The term ‘genetic*
21 *information’ shall not include information*
22 *about the sex or age of an individual.*

23 “(C) *GENETIC TEST.*—

24 “(i) *IN GENERAL.*—*The term ‘genetic*
25 *test’ means an analysis of human DNA,*

1 *RNA, chromosomes, proteins, or metabolites,*
2 *that detects genotypes, mutations, or chro-*
3 *mosomal changes.*

4 “(ii) *EXCEPTIONS.*—*The term ‘genetic*
5 *test’ does not mean—*

6 “(I) *an analysis of proteins or*
7 *metabolites that does not detect*
8 *genotypes, mutations, or chromosomal*
9 *changes; or*

10 “(II) *an analysis of proteins or*
11 *metabolites that is directly related to a*
12 *manifested disease, disorder, or patho-*
13 *logical condition that could reasonably*
14 *be detected by a health care profes-*
15 *sional with appropriate training and*
16 *expertise in the field of medicine in-*
17 *volved.*

18 “(D) *GENETIC SERVICES.*—*The term ‘ge-*
19 *netic services’ means—*

20 “(i) *a genetic test;*

21 “(ii) *genetic counseling (such as ob-*
22 *taining, interpreting, or assessing genetic*
23 *information); and*

24 “(iii) *genetic education.*

1 “(E) *UNDERWRITING.*—*The term ‘under-*
2 *writing’ means, with respect to a medicare sup-*
3 *plemental policy—*

4 “(i) *rules for eligibility (including en-*
5 *rollment and continued eligibility) for, or*
6 *determination of, benefits under the policy;*

7 “(ii) *the computation of premium or*
8 *contribution amounts under the policy;*

9 “(iii) *the application of any pre-exist-*
10 *ing condition exclusion under the policy;*
11 *and*

12 “(iv) *other activities related to the cre-*
13 *ation, renewal, or replacement of a contract*
14 *of health insurance or health benefits.*

15 “(F) *ISSUER OF A MEDICARE SUPPLE-*
16 *MENTAL POLICY.*—*The term ‘issuer of a medicare*
17 *supplemental policy’ includes a third-party ad-*
18 *ministrator or other person acting for or on be-*
19 *half of such issuer.”.*

20 “(2) *CONFORMING AMENDMENT.*—*Section 1882(o)*
21 *of such Act (42 U.S.C. 1395ss(o)) is amended by add-*
22 *ing at the end the following:*

23 “(4) *The issuer of the medicare supplemental*
24 *policy (as defined in subsection (x)) complies with*
25 *subsection (s)(2)(E) and subsection (x).”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply with respect to an issuer of a medicare*
3 *supplemental policy for policy years beginning on or after*
4 *the date that is 18 months after the date of enactment of*
5 *this Act.*

6 (d) *TRANSITION PROVISIONS.*—

7 (1) *IN GENERAL.*—*If the Secretary of Health and*
8 *Human Services identifies a State as requiring a*
9 *change to its statutes or regulations to conform its*
10 *regulatory program to the changes made by this sec-*
11 *tion, the State regulatory program shall not be con-*
12 *sidered to be out of compliance with the requirements*
13 *of section 1882 of the Social Security Act due solely*
14 *to failure to make such change until the date specified*
15 *in paragraph (4).*

16 (2) *NAIC STANDARDS.*—*If, not later than June*
17 *30, 2008, the National Association of Insurance Com-*
18 *missioners (in this subsection referred to as the*
19 *“NAIC”) modifies its NAIC Model Regulation relat-*
20 *ing to section 1882 of the Social Security Act (re-*
21 *ferred to in such section as the 1991 NAIC Model*
22 *Regulation, as subsequently modified) to conform to*
23 *the amendments made by this section, such revised*
24 *regulation incorporating the modifications shall be*
25 *considered to be the applicable NAIC model regulation*

1 *(including the revised NAIC model regulation and the*
2 *1991 NAIC Model Regulation) for the purposes of*
3 *such section.*

4 (3) *SECRETARY STANDARDS.—If the NAIC does*
5 *not make the modifications described in paragraph*
6 *(2) within the period specified in such paragraph, the*
7 *Secretary of Health and Human Services shall, not*
8 *later than October 1, 2008, make the modifications*
9 *described in such paragraph and such revised regula-*
10 *tion incorporating the modifications shall be consid-*
11 *ered to be the appropriate regulation for the purposes*
12 *of such section.*

13 (4) *DATE SPECIFIED.—*

14 (A) *IN GENERAL.—Subject to subparagraph*
15 *(B), the date specified in this paragraph for a*
16 *State is the earlier of—*

17 (i) *the date the State changes its stat-*
18 *utes or regulations to conform its regulatory*
19 *program to the changes made by this sec-*
20 *tion, or*

21 (ii) *October 1, 2008.*

22 (B) *ADDITIONAL LEGISLATIVE ACTION RE-*
23 *QUIRED.—In the case of a State which the Sec-*
24 *retary identifies as—*

1 “(1) *Genetic information shall be treated as*
2 *health information described in section 1171(4)(B).*

3 “(2) *The use or disclosure by a covered entity*
4 *that is a group health plan, health insurance issuer*
5 *that issues health insurance coverage, or issuer of a*
6 *medicare supplemental policy of protected health in-*
7 *formation that is genetic information about an indi-*
8 *vidual for underwriting purposes under the plan, cov-*
9 *erage, or policy shall not be a permitted use or disclo-*
10 *sure.*

11 “(b) *DEFINITIONS.—For purposes of this section:*

12 “(1) *GENETIC INFORMATION; GENETIC TEST;*
13 *FAMILY MEMBER.—The terms ‘genetic information’,*
14 *‘genetic test’, and ‘family member’ have the meanings*
15 *given such terms in section 2791 of the Public Health*
16 *Service Act (42 U.S.C. 300gg-91), as amended by the*
17 *Genetic Information Nondiscrimination Act of 2007.*

18 “(2) *GROUP HEALTH PLAN; HEALTH INSURANCE*
19 *COVERAGE; MEDICARE SUPPLEMENTAL POLICY.—The*
20 *terms ‘group health plan’ and ‘health insurance cov-*
21 *erage’ have the meanings given such terms under sec-*
22 *tion 2791 of the Public Health Service Act (42 U.S.C.*
23 *300gg-91), and the term ‘medicare supplemental pol-*
24 *icy’ has the meaning given such term in section*
25 *1882(g).*

1 “(3) *HIPAA PRIVACY REGULATION.*—*The term*
2 *‘HIPAA privacy regulation’ means the regulations*
3 *promulgated by the Secretary under this part and*
4 *section 264 of the Health Insurance Portability and*
5 *Accountability Act of 1996 (42 U.S.C. 1320d–2 note).*

6 “(4) *UNDERWRITING PURPOSES.*—*The term ‘un-*
7 *derwriting purposes’ means, with respect to a group*
8 *health plan, health insurance coverage, or a medicare*
9 *supplemental policy—*

10 “(A) *rules for eligibility (including enroll-*
11 *ment and continued eligibility) for, or deter-*
12 *mination of, benefits under the plan, coverage, or*
13 *policy;*

14 “(B) *the computation of premium or con-*
15 *tribution amounts under the plan, coverage, or*
16 *policy;*

17 “(C) *the application of any pre-existing*
18 *condition exclusion under the plan, coverage, or*
19 *policy; and*

20 “(D) *other activities related to the creation,*
21 *renewal, or replacement of a contract of health*
22 *insurance or health benefits.*

23 “(c) *PROCEDURE.*—*The revisions under subsection (a)*
24 *shall be made by notice in the Federal Register published*
25 *not later than 60 days after the date of the enactment of*

1 *this section and shall be effective upon publication, without*
2 *opportunity for any prior public comment, but may be re-*
3 *vised, consistent with this section, after opportunity for*
4 *public comment.”.*

5 **SEC. 106. ASSURING COORDINATION.**

6 (a) *IN GENERAL.—Except as provided in subsection*
7 *(b), the Secretary of the Treasury, the Secretary of Health*
8 *and Human Services, and the Secretary of Labor shall en-*
9 *sure, through the execution of an interagency memorandum*
10 *of understanding among such Secretaries, that—*

11 (1) *regulations, rulings, and interpretations*
12 *issued by such Secretaries relating to the same matter*
13 *over which two or more such Secretaries have respon-*
14 *sibility under this title (and the amendments made by*
15 *this title) are administered so as to have the same ef-*
16 *fect at all times; and*

17 (2) *coordination of policies relating to enforcing*
18 *the same requirements through such Secretaries in*
19 *order to have a coordinated enforcement strategy that*
20 *avoids duplication of enforcement efforts and assigns*
21 *priorities in enforcement.*

22 (b) *AUTHORITY OF THE SECRETARY.—The Secretary*
23 *of Health and Human Services has the sole authority to*
24 *promulgate regulations to implement the amendment made*
25 *by section 104.*

1 **SEC. 107. REGULATIONS; EFFECTIVE DATE.**

2 (a) *REGULATIONS.*—Not later than 1 year after the
3 date of enactment of this title, the Secretary of Labor, the
4 Secretary of Health and Human Services, and the Sec-
5 retary of the Treasury shall issue final regulations in an
6 accessible format to carry out this title.

7 (b) *EFFECTIVE DATE.*—Except as provided in section
8 103, the amendments made by this title shall take effect on
9 the date that is 18 months after the date of enactment of
10 this Act.

11 **TITLE II—PROHIBITING EMPLOY-**
12 **MENT DISCRIMINATION ON**
13 **THE BASIS OF GENETIC IN-**
14 **FORMATION**

15 **SEC. 201. DEFINITIONS.**

16 *In this title:*

17 (1) *COMMISSION.*—The term “Commission”
18 means the Equal Employment Opportunity Commis-
19 sion as created by section 705 of the Civil Rights Act
20 of 1964 (42 U.S.C. 2000e–4).

21 (2) *EMPLOYEE; EMPLOYER; EMPLOYMENT AGEN-*
22 *CY; LABOR ORGANIZATION; MEMBER.*—

23 (A) *IN GENERAL.*—The term “employee”
24 means—

25 (i) an employee (including an appli-
26 cant), as defined in section 701(f) of the

1 *Civil Rights Act of 1964 (42 U.S.C.*
2 *2000e(f));*

3 *(ii) a State employee (including an*
4 *applicant) described in section 304(a) of the*
5 *Government Employee Rights Act of 1991*
6 *(42 U.S.C. 2000e–16c(a));*

7 *(iii) a covered employee (including an*
8 *applicant), as defined in section 101 of the*
9 *Congressional Accountability Act of 1995 (2*
10 *U.S.C. 1301);*

11 *(iv) a covered employee (including an*
12 *applicant), as defined in section 411(c) of*
13 *title 3, United States Code; or*

14 *(v) an employee or applicant to which*
15 *section 717(a) of the Civil Rights Act of*
16 *1964 (42 U.S.C. 2000e–16(a)) applies.*

17 *(B) EMPLOYER.—The term “employer”*
18 *means—*

19 *(i) an employer (as defined in section*
20 *701(b) of the Civil Rights Act of 1964 (42*
21 *U.S.C. 2000e(b));*

22 *(ii) an entity employing a State em-*
23 *ployee described in section 304(a) of the*
24 *Government Employee Rights Act of 1991;*

1 (iii) an employing office, as defined in
2 section 101 of the Congressional Account-
3 ability Act of 1995;

4 (iv) an employing office, as defined in
5 section 411(c) of title 3, United States Code;
6 or

7 (v) an entity to which section 717(a) of
8 the Civil Rights Act of 1964 applies.

9 (C) *EMPLOYMENT AGENCY; LABOR ORGANI-*
10 *ZATION.—The terms “employment agency” and*
11 *“labor organization” have the meanings given*
12 *the terms in section 701 of the Civil Rights Act*
13 *of 1964 (42 U.S.C. 2000e).*

14 (D) *MEMBER.—The term “member”, with*
15 *respect to a labor organization, includes an ap-*
16 *plicant for membership in a labor organization.*

17 (3) *FAMILY MEMBER.—The term “family mem-*
18 *ber” means with respect to an individual—*

19 (A) *the spouse of the individual;*

20 (B) *a dependent child of the individual, in-*
21 *cluding a child who is born to or placed for*
22 *adoption with the individual; and*

23 (C) *all other individuals related by blood to*
24 *the individual or the spouse or child described in*
25 *subparagraph (A) or (B).*

1 (4) *GENETIC INFORMATION.*—

2 (A) *IN GENERAL.*—*Except as provided in*
3 *subparagraph (B), the term “genetic informa-*
4 *tion” means information about—*

5 (i) *an individual’s genetic tests;*

6 (ii) *the genetic tests of family members*
7 *of the individual; or*

8 (iii) *the occurrence of a disease or dis-*
9 *order in family members of the individual.*

10 (B) *EXCEPTIONS.*—*The term “genetic infor-*
11 *mation” shall not include information about the*
12 *sex or age of an individual.*

13 (5) *GENETIC MONITORING.*—*The term “genetic*
14 *monitoring” means the periodic examination of em-*
15 *ployees to evaluate acquired modifications to their ge-*
16 *netic material, such as chromosomal damage or evi-*
17 *dence of increased occurrence of mutations, that may*
18 *have developed in the course of employment due to ex-*
19 *posure to toxic substances in the workplace, in order*
20 *to identify, evaluate, and respond to the effects of or*
21 *control adverse environmental exposures in the work-*
22 *place.*

23 (6) *GENETIC SERVICES.*—*The term “genetic serv-*
24 *ices” means—*

25 (A) *a genetic test;*

1 (B) *genetic counseling (such as obtaining,*
2 *interpreting or assessing genetic information); or*

3 (C) *genetic education.*

4 (7) *GENETIC TEST.—*

5 (A) *IN GENERAL.—The term “genetic test”*
6 *means the analysis of human DNA, RNA, chro-*
7 *mosomes, proteins, or metabolites, that detects*
8 *genotypes, mutations, or chromosomal changes.*

9 (B) *EXCEPTION.—The term “genetic test”*
10 *does not mean an analysis of proteins or metabo-*
11 *lites that does not detect genotypes, mutations, or*
12 *chromosomal changes.*

13 **SEC. 202. EMPLOYER PRACTICES.**

14 (a) *USE OF GENETIC INFORMATION.—It shall be an*
15 *unlawful employment practice for an employer—*

16 (1) *to fail or refuse to hire or to discharge any*
17 *employee, or otherwise to discriminate against any*
18 *employee with respect to the compensation, terms,*
19 *conditions, or privileges of employment of the em-*
20 *ployee, because of genetic information with respect to*
21 *the employee (or information about a request for or*
22 *the receipt of genetic services by such employee or*
23 *family member of such employee); or*

24 (2) *to limit, segregate, or classify the employees*
25 *of the employer in any way that would deprive or*

1 *tend to deprive any employee of employment opportu-*
2 *nities or otherwise adversely affect the status of the*
3 *employee as an employee, because of genetic informa-*
4 *tion with respect to the employee (or information*
5 *about a request for or the receipt of genetic services*
6 *by such employee or family member of such em-*
7 *ployee).*

8 *(b) ACQUISITION OF GENETIC INFORMATION.—It shall*
9 *be an unlawful employment practice for an employer to re-*
10 *quest, require, or purchase genetic information with respect*
11 *to an employee or a family member of the employee (or in-*
12 *formation about a request for the receipt of genetic services*
13 *by such employee or a family member of such employee)*
14 *except—*

15 *(1) where an employer inadvertently requests or*
16 *requires family medical history of the employee or*
17 *family member of the employee;*

18 *(2) where—*

19 *(A) health or genetic services are offered by*
20 *the employer, including such services offered as*
21 *part of a bona fide wellness program;*

22 *(B) the employee provides prior, knowing,*
23 *voluntary, and written authorization;*

24 *(C) only the employee (or family member if*
25 *the family member is receiving genetic services)*

1 *and the licensed health care professional or board*
2 *certified genetic counselor involved in providing*
3 *such services receive individually identifiable in-*
4 *formation concerning the results of such services;*
5 *and*

6 *(D) any individually identifiable genetic*
7 *information provided under subparagraph (C) in*
8 *connection with the services provided under sub-*
9 *paragraph (A) is only available for purposes of*
10 *such services and shall not be disclosed to the em-*
11 *ployer except in aggregate terms that do not dis-*
12 *close the identity of specific employees;*

13 *(3) where an employer requests or requires fam-*
14 *ily medical history from the employee to comply with*
15 *the certification provisions of section 103 of the Fam-*
16 *ily and Medical Leave Act of 1993 (29 U.S.C. 2613)*
17 *or such requirements under State family and medical*
18 *leave laws;*

19 *(4) where an employer purchases documents that*
20 *are commercially and publicly available (including*
21 *newspapers, magazines, periodicals, and books, but*
22 *not including medical databases or court records) that*
23 *include family medical history; or*

1 (5) *where the information involved is to be used*
2 *for genetic monitoring of the biological effects of toxic*
3 *substances in the workplace, but only if—*

4 (A) *the employer provides written notice of*
5 *the genetic monitoring to the employee;*

6 (B)(i) *the employee provides prior, know-*
7 *ing, voluntary, and written authorization; or*

8 (ii) *the genetic monitoring is required by*
9 *Federal or State law;*

10 (C) *the employee is informed of individual*
11 *monitoring results;*

12 (D) *the monitoring is in compliance with—*

13 (i) *any Federal genetic monitoring reg-*
14 *ulations, including any such regulations*
15 *that may be promulgated by the Secretary*
16 *of Labor pursuant to the Occupational*
17 *Safety and Health Act of 1970 (29 U.S.C.*
18 *651 et seq.), the Federal Mine Safety and*
19 *Health Act of 1977 (30 U.S.C. 801 et seq.),*
20 *or the Atomic Energy Act of 1954 (42*
21 *U.S.C. 2011 et seq.); or*

22 (ii) *State genetic monitoring regula-*
23 *tions, in the case of a State that is imple-*
24 *menting genetic monitoring regulations*
25 *under the authority of the Occupational*

1 *Safety and Health Act of 1970 (29 U.S.C.*
2 *651 et seq.); and*
3 *(E) the employer, excluding any licensed*
4 *health care professional or board certified genetic*
5 *counselor that is involved in the genetic moni-*
6 *toring program, receives the results of the moni-*
7 *toring only in aggregate terms that do not dis-*
8 *close the identity of specific employees;*

9 *(c) PRESERVATION OF PROTECTIONS.—In the case of*
10 *information to which any of paragraphs (1) through (5)*
11 *of subsection (b) applies, such information may not be used*
12 *in violation of paragraph (1) or (2) of subsection (a) or*
13 *treated or disclosed in a manner that violates section 206.*

14 **SEC. 203. EMPLOYMENT AGENCY PRACTICES.**

15 *(a) USE OF GENETIC INFORMATION.—It shall be an*
16 *unlawful employment practice for an employment agency—*

17 *(1) to fail or refuse to refer for employment, or*
18 *otherwise to discriminate against, any individual be-*
19 *cause of genetic information with respect to the indi-*
20 *vidual (or information about a request for or the re-*
21 *ceipt of genetic services by such individual or family*
22 *member of such individual);*

23 *(2) to limit, segregate, or classify individuals or*
24 *fail or refuse to refer for employment any individual*
25 *in any way that would deprive or tend to deprive any*

1 *individual of employment opportunities, or otherwise*
2 *adversely affect the status of the individual as an em-*
3 *ployee, because of genetic information with respect to*
4 *the individual (or information about a request for or*
5 *the receipt of genetic services by such individual or*
6 *family member of such individual); or*

7 *(3) to cause or attempt to cause an employer to*
8 *discriminate against an individual in violation of*
9 *this title.*

10 *(b) ACQUISITION OF GENETIC INFORMATION.—It shall*
11 *be an unlawful employment practice for an employment*
12 *agency to request, require, or purchase genetic information*
13 *with respect to an individual or a family member of the*
14 *individual (or information about a request for the receipt*
15 *of genetic services by such individual or a family member*
16 *of such individual) except—*

17 *(1) where an employment agency inadvertently*
18 *requests or requires family medical history of the in-*
19 *dividual or family member of the individual;*

20 *(2) where—*

21 *(A) health or genetic services are offered by*
22 *the employment agency, including such services*
23 *offered as part of a bona fide wellness program;*

24 *(B) the individual provides prior, knowing,*
25 *voluntary, and written authorization;*

1 (C) only the individual (or family member
2 if the family member is receiving genetic serv-
3 ices) and the licensed health care professional or
4 board certified genetic counselor involved in pro-
5 viding such services receive individually identifi-
6 able information concerning the results of such
7 services; and

8 (D) any individually identifiable genetic
9 information provided under subparagraph (C) in
10 connection with the services provided under sub-
11 paragraph (A) is only available for purposes of
12 such services and shall not be disclosed to the em-
13 ployment agency except in aggregate terms that
14 do not disclose the identity of specific individ-
15 uals;

16 (3) where an employment agency requests or re-
17 quires family medical history from the individual to
18 comply with the certification provisions of section 103
19 of the Family and Medical Leave Act of 1993 (29
20 U.S.C. 2613) or such requirements under State family
21 and medical leave laws;

22 (4) where an employment agency purchases doc-
23 uments that are commercially and publicly available
24 (including newspapers, magazines, periodicals, and

1 *books, but not including medical databases or court*
2 *records) that include family medical history; or*

3 *(5) where the information involved is to be used*
4 *for genetic monitoring of the biological effects of toxic*
5 *substances in the workplace, but only if—*

6 *(A) the employment agency provides written*
7 *notice of the genetic monitoring to the indi-*
8 *vidual;*

9 *(B)(i) the individual provides prior, know-*
10 *ing, voluntary, and written authorization; or*

11 *(ii) the genetic monitoring is required by*
12 *Federal or State law;*

13 *(C) the individual is informed of individual*
14 *monitoring results;*

15 *(D) the monitoring is in compliance with—*

16 *(i) any Federal genetic monitoring reg-*
17 *ulations, including any such regulations*
18 *that may be promulgated by the Secretary*
19 *of Labor pursuant to the Occupational*
20 *Safety and Health Act of 1970 (29 U.S.C.*
21 *651 et seq.), the Federal Mine Safety and*
22 *Health Act of 1977 (30 U.S.C. 801 et seq.),*
23 *or the Atomic Energy Act of 1954 (42*
24 *U.S.C. 2011 et seq.); or*

1 (ii) *State genetic monitoring regula-*
2 *tions, in the case of a State that is imple-*
3 *menting genetic monitoring regulations*
4 *under the authority of the Occupational*
5 *Safety and Health Act of 1970 (29 U.S.C.*
6 *651 et seq.); and*

7 (E) *the employment agency, excluding any*
8 *licensed health care professional or board cer-*
9 *tified genetic counselor that is involved in the ge-*
10 *netic monitoring program, receives the results of*
11 *the monitoring only in aggregate terms that do*
12 *not disclose the identity of specific individuals;*

13 (c) *PRESERVATION OF PROTECTIONS.—In the case of*
14 *information to which any of paragraphs (1) through (5)*
15 *of subsection (b) applies, such information may not be used*
16 *in violation of paragraph (1) or (2) of subsection (a) or*
17 *treated or disclosed in a manner that violates section 206.*

18 **SEC. 204. LABOR ORGANIZATION PRACTICES.**

19 (a) *USE OF GENETIC INFORMATION.—It shall be an*
20 *unlawful employment practice for a labor organization—*

21 (1) *to exclude or to expel from the membership*
22 *of the organization, or otherwise to discriminate*
23 *against, any member because of genetic information*
24 *with respect to the member (or information about a*

1 *request for or the receipt of genetic services by such*
2 *member or family member of such member);*

3 *(2) to limit, segregate, or classify the members of*
4 *the organization, or fail or refuse to refer for employ-*
5 *ment any member, in any way that would deprive or*
6 *tend to deprive any member of employment opportu-*
7 *nities, or otherwise adversely affect the status of the*
8 *member as an employee, because of genetic informa-*
9 *tion with respect to the member (or information about*
10 *a request for or the receipt of genetic services by such*
11 *member or family member of such member); or*

12 *(3) to cause or attempt to cause an employer to*
13 *discriminate against a member in violation of this*
14 *title.*

15 *(b) ACQUISITION OF GENETIC INFORMATION.—It shall*
16 *be an unlawful employment practice for a labor organiza-*
17 *tion to request, require, or purchase genetic information*
18 *with respect to a member or a family member of the member*
19 *(or information about a request for the receipt of genetic*
20 *services by such member or a family member of such mem-*
21 *ber) except—*

22 *(1) where a labor organization inadvertently re-*
23 *quests or requires family medical history of the mem-*
24 *ber or family member of the member;*

25 *(2) where—*

1 (A) health or genetic services are offered by
2 the labor organization, including such services
3 offered as part of a bona fide wellness program;

4 (B) the member provides prior, knowing,
5 voluntary, and written authorization;

6 (C) only the member (or family member if
7 the family member is receiving genetic services)
8 and the licensed health care professional or board
9 certified genetic counselor involved in providing
10 such services receive individually identifiable in-
11 formation concerning the results of such services;
12 and

13 (D) any individually identifiable genetic
14 information provided under subparagraph (C) in
15 connection with the services provided under sub-
16 paragraph (A) is only available for purposes of
17 such services and shall not be disclosed to the
18 labor organization except in aggregate terms that
19 do not disclose the identity of specific members;

20 (3) where a labor organization requests or re-
21 quires family medical history from the members to
22 comply with the certification provisions of section 103
23 of the Family and Medical Leave Act of 1993 (29
24 U.S.C. 2613) or such requirements under State family
25 and medical leave laws;

1 (4) *where a labor organization purchases docu-*
2 *ments that are commercially and publicly available*
3 *(including newspapers, magazines, periodicals, and*
4 *books, but not including medical databases or court*
5 *records) that include family medical history; or*

6 (5) *where the information involved is to be used*
7 *for genetic monitoring of the biological effects of toxic*
8 *substances in the workplace, but only if—*

9 (A) *the labor organization provides written*
10 *notice of the genetic monitoring to the member;*

11 (B)(i) *the member provides prior, knowing,*
12 *voluntary, and written authorization; or*

13 (ii) *the genetic monitoring is required by*
14 *Federal or State law;*

15 (C) *the member is informed of individual*
16 *monitoring results;*

17 (D) *the monitoring is in compliance with—*

18 (i) *any Federal genetic monitoring reg-*
19 *ulations, including any such regulations*
20 *that may be promulgated by the Secretary*
21 *of Labor pursuant to the Occupational*
22 *Safety and Health Act of 1970 (29 U.S.C.*
23 *651 et seq.), the Federal Mine Safety and*
24 *Health Act of 1977 (30 U.S.C. 801 et seq.),*

1 *or the Atomic Energy Act of 1954 (42*
2 *U.S.C. 2011 et seq.); or*

3 *(ii) State genetic monitoring regula-*
4 *tions, in the case of a State that is imple-*
5 *menting genetic monitoring regulations*
6 *under the authority of the Occupational*
7 *Safety and Health Act of 1970 (29 U.S.C.*
8 *651 et seq.); and*

9 *(E) the labor organization, excluding any*
10 *licensed health care professional or board cer-*
11 *tified genetic counselor that is involved in the ge-*
12 *netic monitoring program, receives the results of*
13 *the monitoring only in aggregate terms that do*
14 *not disclose the identity of specific members;*

15 *(c) PRESERVATION OF PROTECTIONS.—In the case of*
16 *information to which any of paragraphs (1) through (5)*
17 *of subsection (b) applies, such information may not be used*
18 *in violation of paragraph (1) or (2) of subsection (a) or*
19 *treated or disclosed in a manner that violates section 206.*

20 **SEC. 205. TRAINING PROGRAMS.**

21 *(a) USE OF GENETIC INFORMATION.—It shall be an*
22 *unlawful employment practice for any employer, labor or-*
23 *ganization, or joint labor-management committee control-*
24 *ling apprenticeship or other training or retraining, includ-*
25 *ing on-the-job training programs—*

1 (1) to discriminate against any individual be-
2 cause of genetic information with respect to the indi-
3 vidual (or information about a request for or the re-
4 ceipt of genetic services by such individual or a fam-
5 ily member of such individual) in admission to, or
6 employment in, any program established to provide
7 apprenticeship or other training or retraining;

8 (2) to limit, segregate, or classify the applicants
9 for or participants in such apprenticeship or other
10 training or retraining, or fail or refuse to refer for
11 employment any individual, in any way that would
12 deprive or tend to deprive any individual of employ-
13 ment opportunities, or otherwise adversely affect the
14 status of the individual as an employee, because of ge-
15 netic information with respect to the individual (or
16 information about a request for or receipt of genetic
17 services by such individual or family member of such
18 individual); or

19 (3) to cause or attempt to cause an employer to
20 discriminate against an applicant for or a partici-
21 pant in such apprenticeship or other training or re-
22 training in violation of this title.

23 (b) ACQUISITION OF GENETIC INFORMATION.—It shall
24 be an unlawful employment practice for an employer, labor
25 organization, or joint labor-management committee de-

1 *scribed in subsection (a) to request, require, or purchase ge-*
2 *netic information with respect to an individual or a family*
3 *member of the individual (or information about a request*
4 *for the receipt of genetic services by such individual or a*
5 *family member of such individual) except—*

6 *(1) where the employer, labor organization, or*
7 *joint labor-management committee inadvertently re-*
8 *quests or requires family medical history of the indi-*
9 *vidual or family member of the individual;*

10 *(2) where—*

11 *(A) health or genetic services are offered by*
12 *the employer, labor organization, or joint labor-*
13 *management committee, including such services*
14 *offered as part of a bona fide wellness program;*

15 *(B) the individual provides prior, knowing,*
16 *voluntary, and written authorization;*

17 *(C) only the individual (or family member*
18 *if the family member is receiving genetic serv-*
19 *ices) and the licensed health care professional or*
20 *board certified genetic counselor involved in pro-*
21 *viding such services receive individually identifi-*
22 *able information concerning the results of such*
23 *services;*

24 *(D) any individually identifiable genetic*
25 *information provided under subparagraph (C) in*

1 *connection with the services provided under sub-*
2 *paragraph (A) is only available for purposes of*
3 *such services and shall not be disclosed to the em-*
4 *ployer, labor organization, or joint labor-man-*
5 *agement committee except in aggregate terms*
6 *that do not disclose the identity of specific indi-*
7 *viduals;*

8 *(3) where the employer, labor organization, or*
9 *joint labor-management committee requests or re-*
10 *quires family medical history from the individual to*
11 *comply with the certification provisions of section 103*
12 *of the Family and Medical Leave Act of 1993 (29*
13 *U.S.C. 2613) or such requirements under State family*
14 *and medical leave laws;*

15 *(4) where the employer, labor organization, or*
16 *joint labor-management committee purchases docu-*
17 *ments that are commercially and publicly available*
18 *(including newspapers, magazines, periodicals, and*
19 *books, but not including medical databases or court*
20 *records) that include family medical history; or*

21 *(5) where the information involved is to be used*
22 *for genetic monitoring of the biological effects of toxic*
23 *substances in the workplace, but only if—*

24 *(A) the employer, labor organization, or*
25 *joint labor-management committee provides*

1 *written notice of the genetic monitoring to the*
2 *individual;*

3 *(B)(i) the individual provides prior, know-*
4 *ing, voluntary, and written authorization; or*

5 *(ii) the genetic monitoring is required by*
6 *Federal or State law;*

7 *(C) the individual is informed of individual*
8 *monitoring results;*

9 *(D) the monitoring is in compliance with—*

10 *(i) any Federal genetic monitoring reg-*
11 *ulations, including any such regulations*
12 *that may be promulgated by the Secretary*
13 *of Labor pursuant to the Occupational*
14 *Safety and Health Act of 1970 (29 U.S.C.*
15 *651 et seq.), the Federal Mine Safety and*
16 *Health Act of 1977 (30 U.S.C. 801 et seq.),*
17 *or the Atomic Energy Act of 1954 (42*
18 *U.S.C. 2011 et seq.); or*

19 *(ii) State genetic monitoring regula-*
20 *tions, in the case of a State that is imple-*
21 *menting genetic monitoring regulations*
22 *under the authority of the Occupational*
23 *Safety and Health Act of 1970 (29 U.S.C.*
24 *651 et seq.); and*

1 (E) the employer, labor organization, or
2 joint labor-management committee, excluding
3 any licensed health care professional or board
4 certified genetic counselor that is involved in the
5 genetic monitoring program, receives the results
6 of the monitoring only in aggregate terms that
7 do not disclose the identity of specific individ-
8 uals;

9 (c) *PRESERVATION OF PROTECTIONS.*—In the case of
10 information to which any of paragraphs (1) through (5)
11 of subsection (b) applies, such information may not be used
12 in violation of paragraph (1) or (2) of subsection (a) or
13 treated or disclosed in a manner that violates section 206.

14 **SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.**

15 (a) *TREATMENT OF INFORMATION AS PART OF CON-*
16 *FIDENTIAL MEDICAL RECORD.*—If an employer, employ-
17 ment agency, labor organization, or joint labor-manage-
18 ment committee possesses genetic information about an em-
19 ployee or member (or information about a request for or
20 receipt of genetic services by such employee or member or
21 family member of such employee or member), such informa-
22 tion shall be maintained on separate forms and in separate
23 medical files and be treated as a confidential medical record
24 of the employee or member.

1 (b) *LIMITATION ON DISCLOSURE.*—An employer, em-
2 ployment agency, labor organization, or joint labor-man-
3 agement committee shall not disclose genetic information
4 concerning an employee or member (or information about
5 a request for or receipt of genetic services by such employee
6 or member or family member of such employee or member)
7 except—

8 (1) to the employee (or family member if the
9 family member is receiving the genetic services) or
10 member of a labor organization at the request of the
11 employee or member of such organization;

12 (2) to an occupational or other health researcher
13 if the research is conducted in compliance with the
14 regulations and protections provided for under part
15 46 of title 45, Code of Federal Regulations;

16 (3) in response to an order of a court, except
17 that—

18 (A) the employer, employment agency, labor
19 organization, or joint labor-management com-
20 mittee may disclose only the genetic information
21 expressly authorized by such order; and

22 (B) if the court order was secured without
23 the knowledge of the employee or member to
24 whom the information refers, the employer, em-
25 ployment agency, labor organization, or joint

1 *labor-management committee shall provide the*
2 *employee or member with adequate notice to*
3 *challenge the court order;*

4 *(4) to government officials who are investigating*
5 *compliance with this title if the information is rel-*
6 *evant to the investigation; or*

7 *(5) to the extent that such disclosure is made in*
8 *connection with the employee's compliance with the*
9 *certification provisions of section 103 of the Family*
10 *and Medical Leave Act of 1993 (29 U.S.C. 2613) or*
11 *such requirements under State family and medical*
12 *leave laws.*

13 **SEC. 207. REMEDIES AND ENFORCEMENT.**

14 *(a) EMPLOYEES COVERED BY TITLE VII OF THE CIVIL*
15 *RIGHTS ACT OF 1964.—*

16 *(1) IN GENERAL.—The powers, remedies, and*
17 *procedures provided in sections 705, 706, 707, 709,*
18 *710, and 711 of the Civil Rights Act of 1964 (42*
19 *U.S.C. 2000e–4 et seq.) to the Commission, the Attor-*
20 *ney General, or any person, alleging a violation of*
21 *title VII of that Act (42 U.S.C. 2000e et seq.) shall*
22 *be the powers, remedies, and procedures this title pro-*
23 *vides to the Commission, the Attorney General, or*
24 *any person, respectively, alleging an unlawful em-*
25 *ployment practice in violation of this title against an*

1 *employee described in section 201(2)(A)(i), except as*
2 *provided in paragraphs (2) and (3).*

3 (2) *COSTS AND FEES.—The powers, remedies,*
4 *and procedures provided in subsections (b) and (c) of*
5 *section 722 of the Revised Statutes (42 U.S.C. 1988),*
6 *shall be powers, remedies, and procedures this title*
7 *provides to the Commission, the Attorney General, or*
8 *any person, alleging such a practice.*

9 (3) *DAMAGES.—The powers, remedies, and pro-*
10 *cedures provided in section 1977A of the Revised*
11 *Statutes (42 U.S.C. 1981a), including the limitations*
12 *contained in subsection (b)(3) of such section 1977A,*
13 *shall be powers, remedies, and procedures this title*
14 *provides to the Commission, the Attorney General, or*
15 *any person, alleging such a practice (not an employ-*
16 *ment practice specifically excluded from coverage*
17 *under section 1977A(a)(1) of the Revised Statutes).*

18 (b) *EMPLOYEES COVERED BY GOVERNMENT EM-*
19 *PLOYEE RIGHTS ACT OF 1991.—*

20 (1) *IN GENERAL.—The powers, remedies, and*
21 *procedures provided in sections 302 and 304 of the*
22 *Government Employee Rights Act of 1991 (42 U.S.C.*
23 *2000e–16b, 2000e–16c) to the Commission, or any*
24 *person, alleging a violation of section 302(a)(1) of*
25 *that Act (42 U.S.C. 2000e–16b(a)(1)) shall be the*

1 *powers, remedies, and procedures this title provides to*
2 *the Commission, or any person, respectively, alleging*
3 *an unlawful employment practice in violation of this*
4 *title against an employee described in section*
5 *201(2)(A)(ii), except as provided in paragraphs (2)*
6 *and (3).*

7 (2) *COSTS AND FEES.—The powers, remedies,*
8 *and procedures provided in subsections (b) and (c) of*
9 *section 722 of the Revised Statutes (42 U.S.C. 1988),*
10 *shall be powers, remedies, and procedures this title*
11 *provides to the Commission, or any person, alleging*
12 *such a practice.*

13 (3) *DAMAGES.—The powers, remedies, and pro-*
14 *cedures provided in section 1977A of the Revised*
15 *Statutes (42 U.S.C. 1981a), including the limitations*
16 *contained in subsection (b)(3) of such section 1977A,*
17 *shall be powers, remedies, and procedures this title*
18 *provides to the Commission, or any person, alleging*
19 *such a practice (not an employment practice specifi-*
20 *cally excluded from coverage under section*
21 *1977A(a)(1) of the Revised Statutes).*

22 (c) *EMPLOYEES COVERED BY CONGRESSIONAL AC-*
23 *COUNTABILITY ACT OF 1995.—*

24 (1) *IN GENERAL.—The powers, remedies, and*
25 *procedures provided in the Congressional Account-*

1 *ability Act of 1995 (2 U.S.C. 1301 et seq.) to the*
2 *Board (as defined in section 101 of that Act (2 U.S.C.*
3 *1301)), or any person, alleging a violation of section*
4 *201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be*
5 *the powers, remedies, and procedures this title pro-*
6 *vides to that Board, or any person, alleging an un-*
7 *lawful employment practice in violation of this title*
8 *against an employee described in section*
9 *201(2)(A)(iii), except as provided in paragraphs (2)*
10 *and (3).*

11 (2) *COSTS AND FEES.—The powers, remedies,*
12 *and procedures provided in subsections (b) and (c) of*
13 *section 722 of the Revised Statutes (42 U.S.C. 1988),*
14 *shall be powers, remedies, and procedures this title*
15 *provides to that Board, or any person, alleging such*
16 *a practice.*

17 (3) *DAMAGES.—The powers, remedies, and pro-*
18 *cedures provided in section 1977A of the Revised*
19 *Statutes (42 U.S.C. 1981a), including the limitations*
20 *contained in subsection (b)(3) of such section 1977A,*
21 *shall be powers, remedies, and procedures this title*
22 *provides to that Board, or any person, alleging such*
23 *a practice (not an employment practice specifically*
24 *excluded from coverage under section 1977A(a)(1) of*
25 *the Revised Statutes).*

1 (4) *OTHER APPLICABLE PROVISIONS.*—With re-
2 spect to a claim alleging a practice described in para-
3 graph (1), title III of the Congressional Account-
4 ability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply
5 in the same manner as such title applies with respect
6 to a claim alleging a violation of section 201(a)(1) of
7 such Act (2 U.S.C. 1311(a)(1)).

8 (d) *EMPLOYEES COVERED BY CHAPTER 5 OF TITLE*
9 3, *UNITED STATES CODE.*—

10 (1) *IN GENERAL.*—The powers, remedies, and
11 procedures provided in chapter 5 of title 3, United
12 States Code, to the President, the Commission, the
13 Merit Systems Protection Board, or any person, alleg-
14 ing a violation of section 411(a)(1) of that title, shall
15 be the powers, remedies, and procedures this title pro-
16 vides to the President, the Commission, such Board,
17 or any person, respectively, alleging an unlawful em-
18 ployment practice in violation of this title against an
19 employee described in section 201(2)(A)(iv), except as
20 provided in paragraphs (2) and (3).

21 (2) *COSTS AND FEES.*—The powers, remedies,
22 and procedures provided in subsections (b) and (c) of
23 section 722 of the Revised Statutes (42 U.S.C. 1988),
24 shall be powers, remedies, and procedures this title

1 *provides to the President, the Commission, such*
2 *Board, or any person, alleging such a practice.*

3 (3) *DAMAGES.*—*The powers, remedies, and pro-*
4 *cedures provided in section 1977A of the Revised*
5 *Statutes (42 U.S.C. 1981a), including the limitations*
6 *contained in subsection (b)(3) of such section 1977A,*
7 *shall be powers, remedies, and procedures this title*
8 *provides to the President, the Commission, such*
9 *Board, or any person, alleging such a practice (not*
10 *an employment practice specifically excluded from*
11 *coverage under section 1977A(a)(1) of the Revised*
12 *Statutes).*

13 (e) *EMPLOYEES COVERED BY SECTION 717 OF THE*
14 *CIVIL RIGHTS ACT OF 1964.*—

15 (1) *IN GENERAL.*—*The powers, remedies, and*
16 *procedures provided in section 717 of the Civil Rights*
17 *Act of 1964 (42 U.S.C. 2000e–16) to the Commission,*
18 *the Attorney General, the Librarian of Congress, or*
19 *any person, alleging a violation of that section shall*
20 *be the powers, remedies, and procedures this title pro-*
21 *vides to the Commission, the Attorney General, the*
22 *Librarian of Congress, or any person, respectively, al-*
23 *leging an unlawful employment practice in violation*
24 *of this title against an employee or applicant de-*

1 scribed in section 201(2)(A)(v), except as provided in
2 paragraphs (2) and (3).

3 (2) *COSTS AND FEES.*—The powers, remedies,
4 and procedures provided in subsections (b) and (c) of
5 section 722 of the Revised Statutes (42 U.S.C. 1988),
6 shall be powers, remedies, and procedures this title
7 provides to the Commission, the Attorney General, the
8 Librarian of Congress, or any person, alleging such a
9 practice.

10 (3) *DAMAGES.*—The powers, remedies, and pro-
11 cedures provided in section 1977A of the Revised
12 Statutes (42 U.S.C. 1981a), including the limitations
13 contained in subsection (b)(3) of such section 1977A,
14 shall be powers, remedies, and procedures this title
15 provides to the Commission, the Attorney General, the
16 Librarian of Congress, or any person, alleging such a
17 practice (not an employment practice specifically ex-
18 cluded from coverage under section 1977A(a)(1) of the
19 Revised Statutes).

20 (f) *DEFINITION.*—In this section, the term “Commis-
21 sion” means the Equal Employment Opportunity Commis-
22 sion.

23 **SEC. 208. DISPARATE IMPACT.**

24 (a) *GENERAL RULE.*—Notwithstanding any other pro-
25 vision of this Act, “disparate impact”, as that term is used

1 *in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C.*
2 *2000e-2(k)), on the basis of genetic information does not*
3 *establish a cause of action under this Act.*

4 (b) *COMMISSION.—On the date that is 6 years after*
5 *the date of enactment of this Act, there shall be established*
6 *a commission, to be known as the Genetic Nondiscrimina-*
7 *tion Study Commission (referred to in this section as the*
8 *“Commission”) to review the developing science of genetics*
9 *and to make recommendations to Congress regarding wheth-*
10 *er to provide a disparate impact cause of action under this*
11 *Act.*

12 (c) *MEMBERSHIP.—*

13 (1) *IN GENERAL.—The Commission shall be com-*
14 *posed of 8 members, of which—*

15 (A) *1 member shall be appointed by the Ma-*
16 *jority Leader of the Senate;*

17 (B) *1 member shall be appointed by the Mi-*
18 *nority Leader of the Senate;*

19 (C) *1 member shall be appointed by the*
20 *Chairman of the Committee on Health, Edu-*
21 *cation, Labor, and Pensions of the Senate;*

22 (D) *1 member shall be appointed by the*
23 *ranking minority member of the Committee on*
24 *Health, Education, Labor, and Pensions of the*
25 *Senate;*

1 (E) 1 member shall be appointed by the
2 Speaker of the House of Representatives;

3 (F) 1 member shall be appointed by the Mi-
4 nority Leader of the House of Representatives;

5 (G) 1 member shall be appointed by the
6 Chairman of the Committee on Education and
7 the Workforce of the House of Representatives;
8 and

9 (H) 1 member shall be appointed by the
10 ranking minority member of the Committee on
11 Education and the Workforce of the House of
12 Representatives.

13 (2) *COMPENSATION AND EXPENSES.*—The mem-
14 bers of the Commission shall not receive compensation
15 for the performance of services for the Commission,
16 but shall be allowed travel expenses, including per
17 diem in lieu of subsistence, at rates authorized for
18 employees of agencies under subchapter I of chapter
19 57 of title 5, United States Code, while away from
20 their homes or regular places of business in the per-
21 formance of services for the Commission.

22 (d) *ADMINISTRATIVE PROVISIONS.*—

23 (1) *LOCATION.*—The Commission shall be located
24 in a facility maintained by the Equal Employment
25 Opportunity Commission.

1 (2) *DETAIL OF GOVERNMENT EMPLOYEES.*—Any
2 *Federal Government employee may be detailed to the*
3 *Commission without reimbursement, and such detail*
4 *shall be without interruption or loss of civil service*
5 *status or privilege.*

6 (3) *INFORMATION FROM FEDERAL AGENCIES.*—
7 *The Commission may secure directly from any Fed-*
8 *eral department or agency such information as the*
9 *Commission considers necessary to carry out the pro-*
10 *visions of this section. Upon request of the Commis-*
11 *sion, the head of such department or agency shall fur-*
12 *nish such information to the Commission.*

13 (4) *HEARINGS.*—*The Commission may hold such*
14 *hearings, sit and act at such times and places, take*
15 *such testimony, and receive such evidence as the Com-*
16 *mission considers advisable to carry out the objectives*
17 *of this section, except that, to the extent possible, the*
18 *Commission shall use existing data and research.*

19 (5) *POSTAL SERVICES.*—*The Commission may*
20 *use the United States mails in the same manner and*
21 *under the same conditions as other departments and*
22 *agencies of the Federal Government.*

23 (e) *REPORT.*—*Not later than 1 year after all of the*
24 *members are appointed to the Commission under subsection*
25 *(c)(1), the Commission shall submit to Congress a report*

1 *that summarizes the findings of the Commission and makes*
2 *such recommendations for legislation as are consistent with*
3 *this Act.*

4 (f) *AUTHORIZATION OF APPROPRIATIONS.—There are*
5 *authorized to be appropriated to the Equal Employment*
6 *Opportunity Commission such sums as may be necessary*
7 *to carry out this section.*

8 **SEC. 209. CONSTRUCTION.**

9 *Nothing in this title shall be construed to—*

10 (1) *limit the rights or protections of an indi-*
11 *vidual under the Americans with Disabilities Act of*
12 *1990 (42 U.S.C. 12101 et seq.), including coverage af-*
13 *forded to individuals under section 102 of such Act*
14 *(42 U.S.C. 12112), or under the Rehabilitation Act of*
15 *1973 (29 U.S.C. 701 et seq.);*

16 (2)(A) *limit the rights or protections of an indi-*
17 *vidual to bring an action under this title against an*
18 *employer, employment agency, labor organization, or*
19 *joint labor-management committee for a violation of*
20 *this title; or*

21 (B) *establish a violation under this title for an*
22 *employer, employment agency, labor organization, or*
23 *joint labor-management committee of a provision of*
24 *the amendments made by title I;*

1 (3) *limit the rights or protections of an indi-*
2 *vidual under any other Federal or State statute that*
3 *provides equal or greater protection to an individual*
4 *than the rights or protections provided for under this*
5 *title;*

6 (4) *apply to the Armed Forces Repository of*
7 *Specimen Samples for the Identification of Remains;*

8 (5) *limit or expand the protections, rights, or ob-*
9 *ligations of employees or employers under applicable*
10 *workers' compensation laws;*

11 (6) *limit the authority of a Federal department*
12 *or agency to conduct or sponsor occupational or other*
13 *health research that is conducted in compliance with*
14 *the regulations contained in part 46 of title 45, Code*
15 *of Federal Regulations (or any corresponding or simi-*
16 *lar regulation or rule); and*

17 (7) *limit the statutory or regulatory authority of*
18 *the Occupational Safety and Health Administration*
19 *or the Mine Safety and Health Administration to*
20 *promulgate or enforce workplace safety and health*
21 *laws and regulations.*

22 **SEC. 210. MEDICAL INFORMATION THAT IS NOT GENETIC**
23 **INFORMATION.**

24 *An employer, employment agency, labor organization,*
25 *or joint labor-management committee shall not be consid-*

1 *ered to be in violation of this title based on the use, acquisi-*
2 *tion, or disclosure of medical information that is not genetic*
3 *information about a manifested disease, disorder, or patho-*
4 *logical condition of an employee or member, including a*
5 *manifested disease, disorder, or pathological condition that*
6 *has or may have a genetic basis.*

7 **SEC. 211. REGULATIONS.**

8 *Not later than 1 year after the date of enactment of*
9 *this title, the Commission shall issue final regulations in*
10 *an accessible format to carry out this title.*

11 **SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

12 *There are authorized to be appropriated such sums as*
13 *may be necessary to carry out this title (except for section*
14 *208).*

15 **SEC. 213. EFFECTIVE DATE.**

16 *This title takes effect on the date that is 18 months*
17 *after the date of enactment of this Act.*

18 **TITLE III—MISCELLANEOUS**
19 **PROVISION**

20 **SEC. 301. SEVERABILITY.**

21 *If any provision of this Act, an amendment made by*
22 *this Act, or the application of such provision or amendment*
23 *to any person or circumstance is held to be unconstitu-*
24 *tional, the remainder of this Act, the amendments made by*

1 *this Act, and the application of such provisions to any per-*
2 *son or circumstance shall not be affected thereby.*