

Committee on Ways and Means

Social Security Number Privacy and Identity Theft Prevention Act - H.R. 2971

Questions and Answers

Question: Why are there exceptions that sometime permit purchase of an SSN and allow an individual to consent to share his or her SSN?

Answer: There are powerful consumer benefits from business use of SSNs as a common identifier. Similar to the government, businesses match records with other organizations and use SSNs to carry out data exchanges for legitimate business purposes such as transferring and locating assets, tracking patient care among multiple health care providers, and preventing fraud and identity theft. Our nation's credit system relies on the SSN as a common identifier to compile disparate information from many sources into one credit report. These necessary uses of SSNs must be and are preserved in this bill.

Question: Current law provisions under the Gramm-Leach-Bliley Act provide protections for SSNs. Why do we need this legislation?

Answer: The restrictions under the Gramm-Leach-Bliley Act apply only to financial institutions disclosing information to non-affiliated third parties. Moreover, it is possible because of language in the Fair Credit Reporting Act that financial institutions may disclose SSNs among their affiliates, even though the affiliates may operate a wide array of businesses. For example, Citigroup has more than 3,800 affiliates providing an array of banking, insurance, and investment services.¹ We need comprehensive legislation to protect SSNs across-the-board in the public and private sectors.

Question: Does this bill impede a bank's ability to comply with the USA Patriot Act?

Answer:

- The bill has an exception to the prohibition on sale and purchase of SSNs for law enforcement and national security purposes.
- The bill permits the U.S. Attorney General to authorize exchanges of SSNs when necessary (after considering the costs and benefits to the public and with appropriate protections for individuals).
- The bill permits sale, purchase and display to the general public of the last four digits of the SSN for a period of five years. This will permit accurate data-matching to continue without jeopardizing SSN privacy. This authority may be extended with action by Congress.

¹ Communication with the Federal Reserve Board. October 6, 2003.

Question: Restricting the sale, purchase or display to the general public of SSNs will make credit information less accurate and hamper financial transactions. Won't that impede commerce?

Answer:

- The bill includes an exemption from the restrictions for credit, business, employment and other permissible purposes under the Fair Credit Reporting Act, permits the U.S. Attorney General to authorize exchanges of SSNs when necessary (after considering the costs and benefits to the public and with appropriate protections for individuals), and allows for the sale, purchase and display of the last four digits of the SSN for five years, enabling virtually 100 percent matching accuracy while preserving SSN privacy.
- Federal and State laws and policies are already changing to protect SSN privacy. For example, Federal rules of bankruptcy procedure were changed effective December 2003 to prevent all but the last four digits of the SSN from appearing in publicly available documents. State laws in California and Arizona specifically prohibit displays of SSNs on cards, and restrict the mailing of SSNs.
- Businesses are also moving away from using SSNs. For example, Aetna, Cigna and Blue Cross/Blue Shield are removing SSNs on health insurance cards.

Question: Will the legislation affect ordinary business practices? The prohibition on broadly defined "sale and purchase" of SSNs will jeopardize ordinary business activities where SSNs are incidentally disclosed.

Answer: Report language will clarify that the intent is not to stop incidental transmission of SSNs as part of transactions the consumer authorizes. In addition, we have included language that excludes "sale, lease, merger, or exchange of a trade or business" from the definitions of "sell" and "purchase." Finally, the U.S. Attorney General is authorized to allow sale and display of SSNs where determined appropriate.

Question: SSNs should be allowed on health cards.

Answer: We disagree. Stolen wallets and purses containing cards displaying SSNs result in thieves obtaining the SSNs, thereby increasing the risk of identity theft. Several health care plans are already removing SSNs from their cards. Also, to help minimize the administrative burden of removed SSNs from health cards, the U.S. Attorney General has 18 months to write regulations, and the restrictions take effect 1 year after issuance of these regulations, for a total implementation time of at least 2 ½ years after the date of enactment. Displaying SSNs on cards using bar codes or magnetic strips does not provide sufficient protection, since reading devices are readily available.

Question: Does it allow use of truncated SSNs?

Answer: To strike a balance between protecting privacy and ensuring data accuracy, the bill permits sale, purchase and display to the general public of truncated SSNs for a period of five years. If Congress determines sale, purchase and display to the general public of truncated SSNs should continue, it may reauthorize it.

Question: This bill could impose a large administrative burden on state and local courts and other government agencies that would be required to redact SSNs from their records before displaying them to the public.

Answer: The bill's restrictions only apply to new documents (eliminating the need for a massive redaction effort) and provide two and a half years after the date of enactment for implementation. Also, government agencies are responsible only for those SSNs they ask individuals to submit, not incidental occurrences of SSNs, for which the private sector will be held accountable.

Question: Why isn't voluntary opt-out enough? The law already enables customers to opt out of businesses sharing their personal information. Therefore, why do we need a provision (Section 110 of the bill passed by the Committee on Ways and Means) prohibiting businesses from refusing services to those who do not want to provide their SSN? (Note: this provision is the jurisdiction of the Committee on Energy and Commerce.)

Answer:

- While the law prohibits financial institutions from sharing certain personal information (including SSNs) with non-affiliated businesses without giving consumers the ability to opt out of such sharing, they may still share information with their affiliates, which may number in the thousands.
- Federal agencies, such as the Social Security Administration and the Federal Trade Commission, are urging Americans to refuse giving their SSN whenever possible. The bill codifies that advice.
- Nobody should be forced to hand over the "golden key" to their financial and other personal information, especially without comprehensive legislation that prevents businesses from selling SSNs for purposes unrelated to the customer's transaction.
- The bill permits businesses to refuse goods or services without the SSN, if submission of the SSN is expressly required under federal law.

Question: Will this bill hamper private investigators' work? Private investigators rely on SSNs in "credit headers" to locate witnesses, criminal suspects, estate beneficiaries, and others. Preventing release of SSNs from credit headers (Section 109 of the bill passed by the Committee on Ways and Means) will impede the ability of private investigators to provide valuable services to the public. (Note: this provision is the jurisdiction of the Committee on Financial Services.)

Response:

- Private investigators would still be able to access the remainder of credit header information (name, address, phone number) without the SSN.
- Private investigators with a "permissible" purpose under the Fair Credit Reporting Act, such as a court order, for employment purposes, or collection of an account, could still utilize SSNs in credit headers.
- Today, daily oversight of how information from credit headers is used largely depends upon sellers auditing their customers. The bill helps ensure SSNs from credit headers are released only for essential purposes and adds accountability through civil remedies individuals may pursue under the Fair Credit Reporting Act.
- While private investigators serve an important role, it's important to note that seven States do not license private investigators, and in some States licensing is merely a pro forma activity.