

103^D CONGRESS
1ST SESSION

H. R. 978

To amend title XI of the Social Security Act to improve and clarify provisions prohibiting misuse of symbols, emblems, or names in reference to social security programs and agencies.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. JACOBS (for himself and Mr. BUNNING) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To amend title XI of the Social Security Act to improve and clarify provisions prohibiting misuse of symbols, emblems, or names in reference to social security programs and agencies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Social Security Mis-
5 leading Mailings and Communications Act of 1993”.

1 **SEC. 2. IMPROVEMENT AND CLARIFICATION OF PROVI-**
2 **SIONS PROHIBITING MISUSE OF SYMBOLS,**
3 **EMBLEMS, OR NAMES IN REFERENCE TO SO-**
4 **CIAL SECURITY PROGRAMS AND AGENCIES.**

5 (a) PROHIBITION OF UNAUTHORIZED REPRODUC-
6 TION, REPRINTING, OR DISTRIBUTION FOR FEE OF CER-
7 TAIN OFFICIAL PUBLICATIONS.—Section 1140(a) of the
8 Social Security Act (42 U.S.C. 1320b–10(a)) is amend-
9 ed—

10 (1) by redesignating paragraphs (1) and (2) as
11 subparagraphs (A) and (B), respectively;

12 (2) by inserting “(1)” after “(a)”; and

13 (3) by adding at the end the following new
14 paragraph:

15 “(2) No person may, for a fee, reproduce, reprint,
16 or distribute any item consisting of a form, application,
17 or other publication of the Social Security Administration
18 unless such person has obtained specific, written author-
19 ization for such activity in accordance with regulations
20 which the Secretary shall prescribe.”.

21 (b) ADDITION TO PROHIBITED WORDS, LETTERS,
22 SYMBOLS, AND EMBLEMS.—Paragraph (1) of section
23 1140(a) of such Act (as redesignated by subsection (a))
24 is further amended—

25 (1) in subparagraph (A) (as redesignated), by
26 striking “Administration”, the letters ‘SSA’ or

1 'HCFA'," and inserting "Administration", 'Depart-
2 ment of Health and Human Services', 'Health and
3 Human Services', 'Supplemental Security Income
4 Program', or 'Medicaid', the letters 'SSA', 'HCFA',
5 'DHHS', 'HHS', or 'SSI,'""; and

6 (2) in subparagraph (B) (as redesignated), by
7 striking "Social Security Administration" each place
8 it appears and inserting "Social Security Adminis-
9 tration, Health Care Financing Administration, or
10 Department of Health and Human Services", and
11 by striking "or of the Health Care Financing Ad-
12 ministration".

13 (c) EXEMPTION FOR USE OF WORDS, LETTERS,
14 SYMBOLS, AND EMBLEMS OF STATE AND LOCAL GOV-
15 ERNMENT AGENCIES BY SUCH AGENCIES.—Paragraph
16 (1) of section 1140(a) of such Act (as redesignated by sub-
17 section (a)) is further amended by adding at the end the
18 following new sentence: "The preceding provisions of this
19 subsection shall not apply with respect to the use by any
20 agency or instrumentality of a State or political subdivi-
21 sion of a State of any words or letters which identify an
22 agency or instrumentality of such State or of a political
23 subdivision of such State or the use by any such agency
24 or instrumentality of any symbol or emblem of an agency

1 or instrumentality of such State or a political subdivision
2 of such State.”.

3 (d) INCLUSION OF REASONABLENESS STANDARD.—
4 Section 1140(a)(1) of such Act (as amended by the pre-
5 ceding provisions of this section) is further amended, in
6 the matter following subparagraph (B) (as redesignated),
7 by striking “convey” and inserting “convey, or in a man-
8 ner which reasonably could be interpreted or construed as
9 conveying,”.

10 (e) INEFFECTIVENESS OF DISCLAIMERS.—Sub-
11 section (a) of section 1140 of such Act (as amended by
12 the preceding provisions of this section) is further amend-
13 ed by adding at the end the following new paragraph:

14 “(3) Any determination of whether the use of one or
15 more words, letters, symbols, or emblems (or any combina-
16 tion or variation thereof) in connection with an item de-
17 scribed in paragraph (1) or the reproduction, reprinting,
18 or distribution of an item described in paragraph (2) is
19 a violation of this subsection shall be made without regard
20 to any inclusion in such item (or any so reproduced, re-
21 printed, or distributed copy thereof) of a disclaimer of af-
22 filiation with the United States Government or any par-
23 ticular agency or instrumentality thereof.”.

24 (f) VIOLATIONS WITH RESPECT TO INDIVIDUAL
25 ITEMS.—Section 1140(b)(1) of such Act (42 U.S.C.

1 1320b–10(b)(1)) is amended by adding at the end the fol-
2 lowing new sentence: “In the case of any items referred
3 to in subsection (a)(1) consisting of pieces of mail, each
4 such piece of mail which contains one or more words, let-
5 ters, symbols, or emblems in violation of subsection (a)
6 shall represent a separate violation. In the case of any
7 item referred to in subsection (a)(2), the reproduction, re-
8 printing, or distribution of such item shall be treated as
9 a separate violation with respect to each copy thereof so
10 reproduced, reprinted, or distributed.”.

11 (g) ELIMINATION OF CAP ON AGGREGATE LIABILITY
12 AMOUNT.—

13 (1) REPEAL.—Paragraph (2) of section 1140(b)
14 of such Act (42 U.S.C. 1320b–10(b)(2)) is repealed.

15 (2) CONFORMING AMENDMENTS.—Section
16 1140(b) of such Act is further amended—

17 (A) by striking “(1) Subject to paragraph
18 (2), the” and inserting “The”;

19 (B) by redesignating subparagraphs (A)
20 and (B) as paragraphs (1) and (2), respectively;
21 and

22 (C) in paragraph (1) (as redesignated), by
23 striking “subparagraph (B)” and inserting
24 “paragraph (2)”.

1 (h) REMOVAL OF FORMAL DECLINATION REQUIRE-
2 MENT.—Section 1140(c)(1) of such Act (42 U.S.C.
3 1320b–10(c)(1)) is amended by inserting “and the first
4 sentence of subsection (c)” after “and (i)”.

5 (i) PENALTIES RELATING TO SOCIAL SECURITY AD-
6 MINISTRATION DEPOSITED IN OASI TRUST FUND.—Sec-
7 tion 1140(c)(2) of such Act (42 U.S.C. 1320b–10(c)(2))
8 is amended in the second sentence by striking “United
9 States.” and inserting “United States, except that, to the
10 extent that such amounts are recovered under this section
11 as penalties imposed for misuse of words, letters, symbols,
12 or emblems relating to the Social Security Administration,
13 such amounts shall be deposited into the Federal Old-Age
14 and Survivor’s Insurance Trust Fund.”.

15 (j) ADMINISTRATION AND ENFORCEMENT.—Section
16 1140 of such Act (42 U.S.C. 1320b–10) is amended by
17 adding at the end the following new subsection:

18 “(d) The preceding provisions of this section shall be
19 administered and enforced through the Office of Inspector
20 General of the Department of Health and Human Serv-
21 ices.”.

22 (k) ANNUAL REPORTS.—Section 1140 of such Act
23 (as amended by the preceding provisions of this section)
24 is further amended by adding at the end the following new
25 subsection:

1 “(e) The Secretary shall include in the annual report
2 submitted pursuant to section 704 a report on the oper-
3 ation of this section during the year covered by such an-
4 nual report. Such report shall specify—

5 “(1) the number of complaints of violations of
6 this section received by the Social Security Adminis-
7 tration during the year,

8 “(2) the number of cases in which a notice of
9 violation of this section was sent by the Social Secu-
10 rity Administration during the year requesting that
11 an individual cease activities in violation of this sec-
12 tion,

13 “(3) the number of complaints of violations of
14 this section referred by the Social Security Adminis-
15 tration to the Inspector General in the Department
16 of Health and Human Services during the year,

17 “(4) the number of investigations of violations
18 of this section undertaken by the Inspector General
19 during the year,

20 “(5) the number of cases in which a demand
21 letter was sent during the year assessing a civil
22 money penalty under this section,

23 “(6) the total amount of civil money penalties
24 assessed under this section during the year,

1 “(7) the number of requests for hearings filed
2 during the year pursuant to subsection (c)(1) of this
3 section and section 1128A(c)(2),

4 “(8) the disposition during such year of hear-
5 ings filed pursuant to sections 1140(c)(1) and
6 1128A(c)(2), and

7 “(9) the total amount of civil money penalties
8 under this section deposited into the Federal Old-
9 Age and Survivors Insurance Trust Fund during the
10 year.”.

11 **SEC. 3. EFFECTIVE DATE.**

12 The amendments made by this Act shall apply with
13 respect to violations occurring after the date of the enact-
14 ment of this Act.

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