

116TH CONGRESS
1ST SESSION

H. R. 3219

To require the Secretary of Labor to maintain a publicly available list of all employers that relocate a call center or contract call center work overseas, to make such companies ineligible for Federal grants or guaranteed loans, and to require disclosure of the physical location of business agents engaging in customer service communications, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2019

Mr. MCKINLEY (for himself and Mr. POCAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, Armed Services, and Oversight and Reform, 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

A BILL

To require the Secretary of Labor to maintain a publicly available list of all employers that relocate a call center or contract call center work overseas, to make such companies ineligible for Federal grants or guaranteed loans, and to require disclosure of the physical location of business agents engaging in customer service communications, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “United States Call Center Worker and Consumer Protec-
4 tion Act of 2019”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—CONSEQUENCES FOR RELOCATING OR CONTRACTING
OUT CALL CENTER WORK OVERSEAS

Sec. 101. List of call centers relocating or contracting call center work overseas
and ineligibility for grants or guaranteed loans.

Sec. 102. Rule of construction related to Federal benefits for workers.

Sec. 103. Report regarding Federal call center work locations.

Sec. 104. Requirement that call center work under a Federal contract be per-
formed inside the United States.

TITLE II—REQUIRED DISCLOSURE OF PHYSICAL LOCATIONS IN
CUSTOMER SERVICE COMMUNICATIONS

Sec. 201. Required disclosure by business entities engaged in customer service
communications of physical location.

Sec. 202. Enforcement.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) AGENCY.—The term “agency” means a
10 Federal or State executive agency or a military de-
11 partment.

12 (2) BUSINESS ENTITY.—The term “business
13 entity” means any organization, corporation, trust,
14 partnership, sole proprietorship, unincorporated as-
15 sociation, or venture established to make a profit, in
16 whole or in part, by purposefully availing itself of

1 the privilege of conducting commerce in the United
2 States.

3 (3) CALL CENTER.—The term “call center”
4 means a facility or other operation whereby employ-
5 ees receive incoming telephone calls, emails, or other
6 electronic communication for the purpose of pro-
7 viding customer assistance or other service.

8 (4) CONSUMER.—The term “consumer” means
9 any individual within the territorial jurisdiction of
10 the United States who purchases, transacts, or con-
11 tracts for the purchase or transaction of any goods,
12 merchandise, or services, not for resale in the ordi-
13 nary course of the individual’s trade or business, but
14 for the individual’s use or that of a member of the
15 individual’s household.

16 (5) CONTRACTING CALL CENTER WORK OVER-
17 SEAS.—The term “contracting call center work over-
18 seas” means transferring the work of a call center,
19 or of one or more facilities or operating units within
20 a call center comprising at least 30 percent of the
21 total volume of the call center or operating unit
22 when measured against the previous 12-month aver-
23 age call volume of operations or substantially similar
24 operations, through a contract or other agreement to

1 another entity who will perform that work outside of
2 the United States.

3 (6) CUSTOMER SERVICE COMMUNICATION.—

4 The term “customer service communication” means
5 any telecommunication or wire communication be-
6 tween a consumer and a business entity in further-
7 ance of commerce.

8 (7) EMPLOYER.—The term “employer” means
9 any business enterprise that employs in a call cen-
10 ter—

11 (A) 50 or more employees, excluding part-
12 time employees; or

13 (B) 50 or more employees who in the ag-
14 gregate work at least 1,500 hours per week (ex-
15 clusive of hours of overtime).

16 (8) PART-TIME EMPLOYEE.—The term “part-
17 time employee” means an employee who is employed
18 for an average of fewer than 20 hours per week or
19 who has been employed for fewer than 6 of the 12
20 months preceding the date on which notice is re-
21 quired.

22 (9) RELOCATING AND RELOCATION.—The
23 terms “relocating” and “relocation” refer to the clo-
24 sure of a call center, or the cessation of operations
25 of a call center, or one or more facilities or operating

1 units within a call center comprising at least 30 per-
2 cent of the total volume of the call center or oper-
3 ating unit, when measured against the previous 12-
4 month average call volume of operations or substan-
5 tially similar operations, and the transferring of the
6 operations of the call center (or facilities or oper-
7 ating units) to another location outside of the
8 United States.

9 (10) SECRETARY.—The term “Secretary”
10 means the Secretary of Labor.

11 (11) TELECOMMUNICATION.—The term “tele-
12 communication” means the transmission, between or
13 among points specified by the communicator, of in-
14 formation of the communicator’s choosing, without
15 change in the form or content of the information as
16 sent and received.

17 (12) WIRE COMMUNICATION AND COMMUNICA-
18 TION BY WIRE.—The term “wire communication” or
19 “communication by wire” means the transmission of
20 writing, signs, signals, pictures, and sounds of all
21 kinds by aid of wire, cable, or other like connection
22 between the points of origin and reception of such
23 transmission, including all instrumentalities, facili-
24 ties, apparatus, and services (among other things,

1 the receipt, forwarding, and delivery of communica-
 2 tions) incidental to such transmission.

3 **TITLE I—CONSEQUENCES FOR**
 4 **RELOCATING OR CON-**
 5 **TRACTING OUT CALL CENTER**
 6 **WORK OVERSEAS**

7 **SEC. 101. LIST OF CALL CENTERS RELOCATING OR CON-**
 8 **TRACTING CALL CENTER WORK OVERSEAS**
 9 **AND INELIGIBILITY FOR GRANTS OR GUAR-**
 10 **ANTEED LOANS.**

11 (a) LIST.—

12 (1) NOTICE REQUIREMENT.—

13 (A) IN GENERAL.—Not fewer than 120
 14 days before relocating a call center outside of
 15 the United States, or contracting call center
 16 work overseas, an employer shall notify the Sec-
 17 retary of such relocation or contracting.

18 (B) PENALTY.—A person who violates sub-
 19 paragraph (A) shall be subject to a civil penalty
 20 not to exceed \$10,000 for each day of violation.

21 (2) ESTABLISHMENT AND MAINTENANCE OF
 22 LIST.—

23 (A) IN GENERAL.—The Secretary shall es-
 24 tablish, maintain, and make available to the
 25 public a list of all employers who relocate a call

1 center or contract call center work overseas, as
2 described in paragraph (1)(A).

3 (B) TERM.—Each employer included in
4 the list required by subparagraph (A) shall re-
5 main on the list for a period not to exceed 5
6 years after each instance of relocating a call
7 center or contracting call center work overseas.

8 (C) REMOVAL.—The Secretary may re-
9 move an employer from the list required by sub-
10 paragraph (A) if the Secretary determines
11 that—

12 (i)(I) the employer has relocated a call
13 center from a location outside of the
14 United States to a location in the United
15 States; and

16 (II) the new call center in the United
17 States employs a number of employees
18 equal to or greater than the number of em-
19 ployees who worked at the original call
20 center that was relocated to a location out-
21 side of the United States; or

22 (ii) in the case of an employer who
23 contracted call center work overseas, the
24 employer demonstrates that the contract or
25 agreement has been amended to require

1 that all employees performing call center
2 work under the contract or agreement will
3 be located in the United States.

4 (b) INELIGIBILITY FOR GRANTS OR GUARANTEED
5 LOANS.—

6 (1) INELIGIBILITY.—Except as provided in
7 paragraph (2) and notwithstanding any other provi-
8 sion of law, an employer who appears on the list re-
9 quired by subsection (a)(2)(A) shall be ineligible for
10 any direct or indirect Federal grants or Federal
11 guaranteed loans for 5 years after the date such em-
12 ployer was added to the list.

13 (2) EXCEPTIONS.—The Secretary, in consulta-
14 tion with the appropriate agency providing a loan or
15 grant, may waive the eligibility restriction provided
16 under paragraph (1) if the employer applying for
17 such loan or grant demonstrates that a lack of such
18 loan or grant would—

19 (A) threaten national security;

20 (B) result in substantial job loss in the
21 United States; or

22 (C) harm the environment.

23 (c) PREFERENCE IN FEDERAL CONTRACTING FOR
24 NOT RELOCATING OR CONTRACTING CALL CENTER
25 WORK OVERSEAS.—The head of an agency, when award-

1 ing a civilian or defense-related Federal contract, shall
2 give preference to a United States employer that does not
3 appear on the list required by subsection (a)(2)(A).

4 (d) EFFECTIVE DATE.—This section shall take effect
5 on the date that is 1 year after the date of the enactment
6 of this Act.

7 **SEC. 102. RULE OF CONSTRUCTION RELATED TO FEDERAL**
8 **BENEFITS FOR WORKERS.**

9 No provision of this title shall be construed to permit
10 withholding or denial of payments, compensation, or bene-
11 fits under any provision of Federal law (including Federal
12 unemployment compensation, disability payments, or
13 worker retraining or readjustment funds) to workers em-
14 ployed by employers that relocate operations outside the
15 United States.

16 **SEC. 103. REPORT REGARDING FEDERAL CALL CENTER**
17 **WORK LOCATIONS.**

18 By not later than 1 year after the date of enactment
19 of this Act, the Secretary of Labor shall prepare and sub-
20 mit to Congress a report that documents the location, and
21 amount, of call center work conducted by or for the Fed-
22 eral Government, including—

23 (1) a determination of the amount of such Fed-
24 eral call center work that is conducted by Federal

1 employees, and the amount conducted by Federal
2 contractors; and

3 (2) all locations at which such Federal call cen-
4 ter work is being conducted, whether by Federal em-
5 ployees or through Federal contracts.

6 **SEC. 104. REQUIREMENT THAT CALL CENTER WORK UNDER**
7 **A FEDERAL CONTRACT BE PERFORMED IN-**
8 **SIDE THE UNITED STATES.**

9 The head of an agency, when awarding a civilian or
10 defense-related Federal contract, shall require as a condi-
11 tion of the contract that any call center work performed
12 in connection with the contract or any subcontract under
13 the contract shall be performed inside the United States.

14 **TITLE II—REQUIRED DISCLO-**
15 **SURE OF PHYSICAL LOCA-**
16 **TIONS IN CUSTOMER SERV-**
17 **ICE COMMUNICATIONS**

18 **SEC. 201. REQUIRED DISCLOSURE BY BUSINESS ENTITIES**
19 **ENGAGED IN CUSTOMER SERVICE COMMU-**
20 **NICATIONS OF PHYSICAL LOCATION.**

21 (a) IN GENERAL.—Except as provided in subsection
22 (b), a business entity that either initiates or receives a cus-
23 tomer service communication shall require that each of its
24 employees or agents participating in the communication

1 disclose their physical location at the beginning of each
2 customer service communication so initiated or received.

3 (b) EXCEPTIONS.—

4 (1) BUSINESS ENTITIES LOCATED IN THE
5 UNITED STATES.—The requirements of subsection
6 (a) shall not apply to a customer service communica-
7 tion involving a business entity if all of the employ-
8 ees or agents of the business entity participating in
9 such communication are physically located in the
10 United States.

11 (2) COMMUNICATION INITIATED BY CONSUMER
12 KNOWINGLY TO FOREIGN ENTITY OR ADDRESS.—
13 The requirements of subsection (a) shall not apply
14 to an employee or agent of a business entity partici-
15 pating in a customer service communication with a
16 consumer if—

17 (A) the customer service communication
18 was initiated by the consumer;

19 (B) the employee or agent is physically lo-
20 cated outside the United States; and

21 (C) the consumer knows or reasonably
22 should know that the employee or agent is
23 physically located outside the United States.

24 (3) EMERGENCY SERVICES.—The requirements
25 of subsection (a) shall not apply to a customer serv-

1 ice communication relating to the provision of emer-
2 gency services (as defined by the Federal Trade
3 Commission).

4 (4) BUSINESS ENTITIES AND CUSTOMER SERV-
5 ICE COMMUNICATIONS EXCLUDED BY FEDERAL
6 TRADE COMMISSION.—The Federal Trade Commis-
7 sion may exclude certain classes or types of business
8 entities or customer service communications from
9 the requirements of subsection (a) if the Commission
10 finds exceptionally compelling circumstances that
11 justify such exclusion.

12 (c) TRANSFER TO U.S.-BASED CUSTOMER SERVICE
13 CENTER.—A business entity that is subject to the require-
14 ments of subsection (a) shall, at the request of a customer,
15 transfer the customer to a customer service agent who is
16 physically located in the United States.

17 (d) CERTIFICATION REQUIREMENT.—Each year,
18 each business entity that participates in a customer service
19 communication shall certify to the Federal Trade Commis-
20 sion that it has complied or failed to comply with the re-
21 quirements of subsections (a) and (c).

22 (e) REGULATIONS.—Not later than 1 year after the
23 date of the enactment of this Act, the Federal Trade Com-
24 mission shall promulgate such regulations as may be nec-
25 essary to carry out the provisions of this section.

1 (f) EFFECTIVE DATE.—The requirements of sub-
2 section (a) shall apply with respect to customer service
3 communications occurring on or after the date that is 1
4 year after the date of the enactment of this Act.

5 **SEC. 202. ENFORCEMENT.**

6 (a) IN GENERAL.—Any failure to comply with the
7 provisions of section 201 shall be treated as a violation
8 of a regulation under section 18(a)(1)(B) of the Federal
9 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regard-
10 ing unfair or deceptive acts or practices.

11 (b) POWERS OF FEDERAL TRADE COMMISSION.—

12 (1) IN GENERAL.—The Federal Trade Commis-
13 sion shall prevent any person from violating section
14 201 and any regulation promulgated thereunder, in
15 the same manner, by the same means, and with the
16 same jurisdiction, powers, and duties as though all
17 applicable terms and provisions of the Federal Trade
18 Commission Act (15 U.S.C. 41 et seq.) were incor-
19 porated into and made a part of this Act.

20 (2) PENALTIES.—Any person who violates regu-
21 lations promulgated under section 201 shall be sub-
22 ject to the penalties and entitled to the privileges
23 and immunities provided in the Federal Trade Com-
24 mission Act in the same manner, by the same
25 means, and with the same jurisdiction, power, and

1 duties as though all applicable terms and provisions
2 of the Federal Trade Commission Act were incor-
3 porated into and made part of this Act.

4 (c) AUTHORITY PRESERVED.—Nothing in this sec-
5 tion or section 201 shall be construed to limit the author-
6 ity of the Federal Trade Commission under any other pro-
7 vision of law.

○