

113TH CONGRESS
2D SESSION

S. 2176

To revise reporting requirements under the Patient Protection and Affordable Care Act to preserve the privacy of individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 27, 2014

Mr. WARNER (for himself, Mr. FRANKEN, Mr. BEGICH, Mr. MANCHIN, Mrs. SHAHEEN, Ms. HEITKAMP, Mr. UDALL of New Mexico, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To revise reporting requirements under the Patient Protection and Affordable Care Act to preserve the privacy of individuals, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commonsense Report-
5 ing Act of 2014”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Reporting requirements under the Patient
9 Protection and Affordable Care Act (Public Law

1 111–148) should strike the appropriate balance be-
2 tween sufficient reporting to enforce the law and
3 protecting the privacy of individuals.

4 (2) Protection of the primary insured individual
5 and each other individual covered under the policy,
6 which should include minimizing the transmittal of
7 social security numbers, should be a priority when
8 implementing reporting requirements.

9 (3) The Department of the Treasury and the
10 Internal Revenue Service should continue to work
11 together with other departments and agencies, in-
12 cluding the Department of Health and Human Serv-
13 ices, the Department of Labor, and the Small Busi-
14 ness Administration, to streamline reporting and ad-
15 ministrative processes under the Patient Protection
16 and Affordable Care Act. These same agencies and
17 departments should also work together to identify
18 ways to minimize compliance burdens on businesses,
19 insurance carriers, and individuals.

20 **SEC. 3. PROTECTION OF DEPENDENT PRIVACY.**

21 (a) IN GENERAL.—Paragraph (1) of section 6055(b)
22 of the Internal Revenue Code of 1986 is amended by add-
23 ing at the end the following flush sentence:

24 “For purposes of subparagraph (B)(i), in the case of
25 an individual other than the primary insured, if the

1 health insurance issuer or the employer does not col-
 2 lect or maintain information on the TINs of such in-
 3 dividuals (other than for purposes of this section),
 4 the individual's name and date of birth may be sub-
 5 stituted for the name and TIN.”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
 7 this section shall apply to returns the due date for which
 8 is after December 31, 2013.

9 **SEC. 4. EMPLOYEE OPT-OUT.**

10 (a) **IN GENERAL.**—Subsection (d) of section 6056 of
 11 the Internal Revenue Code of 1986 is amended by adding
 12 at the end the following flush sentence:

13 “An individual shall be deemed to have consented to re-
 14 ceive the statement under this section in electronic form
 15 if such individual has consented at any prior time, to a
 16 person required to furnish to such individual any state-
 17 ment for use in filing the return of tax, to receive such
 18 statement in electronic form, unless the individual explic-
 19 itly refuses such consent.”.

20 (b) **STATEMENTS RELATING TO HEALTH INSURANCE**
 21 **COVERAGE.**—Subsection (c) of section 6055 of the Inter-
 22 nal Revenue Code of 1986 is amended by adding at the
 23 end the following new paragraph:

24 “(3) **ELECTRONIC DELIVERY.**—An individual
 25 shall be deemed to have consented to receive the

1 statement under this subsection in electronic form if
2 such individual has consented at any prior time to
3 receive in electronic form any private health infor-
4 mation (such as electronic health records) furnished
5 to such individual by the person required to make
6 such statement, unless the individual explicitly re-
7 fuses such consent.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to statements the due date for
10 which is after December 31, 2013.

11 **SEC. 5. STUDY.**

12 (a) IN GENERAL.—The Department of the Treasury,
13 in consultation with the Department of Health and
14 Human Services, the Department of Labor, and the Small
15 Business Administration, shall report to Congress not
16 later than 90 days after the date of the enactment of this
17 Act on the processes necessary to develop a prospective
18 reporting system in which an employer would be consid-
19 ered to have complied with section 6056 of the Internal
20 Revenue Code of 1986 for future reporting periods if the
21 employer provided information on a voluntary basis on the
22 affordability and value of the health coverage offered by
23 such employer, generally to whom it is offered, and the
24 length of any waiting period.

1 (b) REQUIREMENTS.—The report under subsection
2 (a) should address—

3 (1) the processes necessary to ensure that Ex-
4 changes could access the general information de-
5 scribed in subsection (a) to assist in verifying eligi-
6 bility determinations for advance payment of the
7 premium tax credits under section 36B of the Inter-
8 nal Revenue Code of 1986 and the cost-sharing sub-
9 sidies under section 1402 of the Patient Protection
10 and Affordable Care Act (Public Law 111–148);

11 (2) guidance on how employers who provide this
12 information on a voluntary basis in advance may be
13 considered exempt from general reporting require-
14 ments under section 6056 of the Internal Revenue
15 Code of 1986, and should instead be required only
16 to provide individual reports to employees who have
17 been deemed eligible for advance payment of pre-
18 mium tax credits;

19 (3) any barriers that currently exist in data
20 systems maintained by the Department of Health
21 and Human Services or the Internal Revenue Serv-
22 ice which would hinder the development of such a
23 verification system, and recommendations for ad-
24 dressing such barriers;

1 (4) any statutory barriers that would prevent
2 the administration from implementing a voluntary
3 prospective reporting system and exempting employ-
4 ers who utilize such system from general reporting
5 requirements under such section 6056; and

6 (5) the costs to develop such a system.

7 (c) OPEN COMMENT PERIOD.—After the submission
8 of the report under subsection (a) to Congress, there shall
9 be an open comment period of not less than 60 days for
10 applicable employers and other interested parties to re-
11 spond to the contents of the report. All comments sub-
12 mitted shall be accessible on a publicly available database.

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