

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3556

To provide penalties for email marketing fraud.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2012

Mr. WHITEHOUSE (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide penalties for email marketing fraud.

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 “Telemarketing Fraud  
5       Modernization Act of 2012”.

6       **SEC. 2. INVESTMENT SCAMS.**

7       Section 2325(1) of title 18, United States Code, is  
8       amended—

9               (1) in subparagraph (B), by striking “or,” at  
10       the end;

1 (2) in subparagraph (C), by striking “value,”  
2 and inserting “value;”; and

3 (3) by inserting before “by use of 1” the fol-  
4 lowing:

5 “(D) investment for financial profit;

6 “(E) participation in a business oppor-  
7 tunity; or

8 “(F) commitment to a loan.”.

9 **SEC. 3. ENHANCED PENALTIES FOR HEALTH CARE FRAUD.**

10 Section 2326 of title 18, United States Code, is  
11 amended in the matter preceding paragraph (1), by strik-  
12 ing “or 1344” and inserting “1344, or 1347 or section  
13 1128B of the Social Security Act (42 U.S.C. 1320a–7b)”.

14 **SEC. 4. EMAIL MARKETING SCAMS.**

15 (a) IN GENERAL.—Chapter 113A of title 18, United  
16 States Code, is amended—

17 (1) in the chapter heading by inserting “**AND**  
18 **EMAIL MARKETING**” after “**TELE-**  
19 **MARKETING**”;

20 (2) in section 2325—

21 (A) in the matter preceding paragraph (1)  
22 by inserting “or email marketing” after “tele-  
23 marketing”;

24 (B) in paragraph (1), as amended by sec-  
25 tion 2, in the flush text following subparagraph

1 (F), by inserting “, emails, text messages, or  
2 electronic instant messages” after “interstate  
3 telephone calls”; and

4 (C) in paragraph (2)—

5 (i) in the matter preceding subpara-  
6 graph (A), by inserting “posting, publica-  
7 tion, or” before “mailing”; and

8 (ii) in the flush text following sub-  
9 paragraph (D)—

10 (I) by inserting “, email, text  
11 message, or electronic instant mes-  
12 sage” after “by telephone”;

13 (II) by striking “receives calls”  
14 and inserting “receives interstate tele-  
15 phone calls, emails, text messages, or  
16 electronic instant messages”; and

17 (III) by striking “during those  
18 calls takes orders without” and insert-  
19 ing “in response to those interstate  
20 telephone calls, emails, text messages,  
21 or electronic instant messages does  
22 not conduct”; and

23 (3) in section 2326, in the matter preceding  
24 paragraph (1), as amended by section 3, by inserting  
25 “or email marketing” after “telemarketing”.

1 (b) CONFORMING AMENDMENT.—The table of chap-  
2 ters at the beginning of part I of title 18, United States  
3 Code, is amended by striking the item relating to chapter  
4 113A and inserting the following:

“113A. Telemarketing and email marketing fraud ..... 2325”.

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