

112TH CONGRESS
1ST SESSION

H. R. 3596

To require a publicly available a list of all employers that relocate a call center overseas and 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.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2011

Mr. BISHOP of New York (for himself, Mr. MCKINLEY, Mr. MICHAUD, and Mr. GENE GREEN of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Oversight and Government Reform, Armed Services, and Education and the Workforce, 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 a publicly available a list of all employers that relocate a call center overseas and 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.

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.**

2 This Act may be cited as the “The United States Call
3 Center Worker and Consumer Protection Act”.

4 **SEC. 2. DEFINITIONS.**

5 As used in this Act—

6 (1) the term “agency” means a Federal or
7 State executive agency and a military department;

8 (2) the term “business entity” means any orga-
9 nization, corporation, trust, partnership, sole propri-
10 etorship, unincorporated association, or venture es-
11 tablished to make a profit, in whole or in part, by
12 purposefully availing itself of the privilege of con-
13 ducting commerce in the United States;

14 (3) the term “call center” means a facility or
15 other operation whereby employees receive incoming
16 telephone calls, emails, or other electronic commu-
17 nication for the purpose of providing customer as-
18 sistance or other service;

19 (4) the term “consumer” means any individual
20 within the territorial jurisdiction of the United
21 States who purchases, transacts, or contracts for the
22 purchase or transaction of any goods, merchandise,
23 or services, not for resale in the ordinary course of
24 the individual’s trade or business, but for the indi-
25 vidual’s use or that of a member of the individual’s
26 household;

1 (5) the term “customer service communication”
2 means any telecommunication or wire communica-
3 tion between a consumer and a business entity in
4 furtherance of commerce;

5 (6) the term “employer” means any business
6 enterprise that employs in a call center—

7 (A) 50 or more employees, excluding part-
8 time employees; or

9 (B) 50 or more employees who in the ag-
10 gregate work at least 1,500 hours per week (ex-
11 clusive of hours of overtime);

12 (7) the term “part-time employee” means an
13 employee who is employed for an average of fewer
14 than 20 hours per week or who has been employed
15 for fewer than 6 of the 12 months preceding the
16 date on which notice is required;

17 (8) the terms “relocating” and “relocation”
18 refer to the closure of a call center, or the cessation
19 of operations of a call center, or 1 or more facilities
20 or operating units within a call center comprising at
21 least 30 percent of the call center’s, or operating
22 unit’s, total volume when measured against the pre-
23 vious 12-month average call volume of operations or
24 substantially similar operations to a location outside
25 of the United States;

1 (9) the term “Secretary” means the Secretary
2 of Labor;

3 (10) the term “telecommunication” means the
4 transmission, between or among points specified by
5 the communicator, of information of the communi-
6 cator’s choosing, without change in the form or con-
7 tent of the information as sent and received; and

8 (11) the term “wire communication” or “com-
9 munication by wire” means the transmission of writ-
10 ing, signs, signals, pictures, and sounds of all kinds
11 by aid of wire, cable, or other like connection be-
12 tween the points of origin and reception of such
13 transmission, including all instrumentalities, facili-
14 ties, apparatus, and services (among other things,
15 the receipt, forwarding, and delivery of communica-
16 tions) incidental to such transmission.

17 **SEC. 3. LIST OF CALL CENTERS RELOCATING OVERSEAS**
18 **AND INELIGIBILITY FOR GRANTS OR GUAR-**
19 **ANTEED LOANS.**

20 (a) LIST.—

21 (1) NOTICE REQUIREMENT.—

22 (A) IN GENERAL.—Not fewer than 120
23 days before relocating a call center to a location
24 outside of the United States, an employer shall
25 notify the Secretary of such relocation.

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

4 (2) LIST.—The Secretary shall maintain and
5 make publicly available a list of all employers that
6 relocate a call center, and such employers shall re-
7 main on the list for a period not to exceed 3 years
8 after each instance of relocating a call center.

9 (b) INELIGIBILITY FOR GRANTS OR GUARANTEED
10 LOANS.—

11 (1) INELIGIBILITY.—Except as provided in sub-
12 section (b) and notwithstanding any other provision
13 of law, an employer that appears on the list de-
14 scribed in section 3(b) shall be ineligible for any di-
15 rect or indirect Federal grants or Federal guaran-
16 teed loans for 5 years after the date such employer
17 was added to the list.

18 (2) EXCEPTIONS.—The Secretary, in consulta-
19 tion with the appropriate agency providing a loan or
20 grant, may waive the eligibility restriction provided
21 under subsection (a) if the employer applying for
22 such loan or grant demonstrates that a lack of such
23 loan or grant would—

24 (A) threaten national security;

1 (B) result in substantial job loss in the
2 United States; or

3 (C) harm the environment.

4 (c) PREFERENCE IN FEDERAL CONTRACTING FOR
5 NOT RELOCATING A CALL CENTER OVERSEAS.—The
6 head of an agency, when awarding a civilian or defense-
7 related contract, shall give preference to a United States
8 employer that does not appear on the list described in sec-
9 tion 3(b).

10 (d) EFFECTIVE DATE.—This section shall take effect
11 1 year after its enactment.

12 **SEC. 4. RULE OF CONSTRUCTION RELATED TO FEDERAL**
13 **BENEFITS FOR WORKERS.**

14 No provision of section 3 shall be construed to permit
15 withholding or denial of payments, compensation, or bene-
16 fits under any Federal law (including Federal unemploy-
17 ment compensation, disability payments, or worker re-
18 training or readjustment funds) to workers employed by
19 employers that relocate operations outside the United
20 States.

21 **SEC. 5. REQUIRED DISCLOSURE BY BUSINESS ENTITIES EN-**
22 **GAGED IN CUSTOMER SERVICE COMMUNICA-**
23 **TIONS OF PHYSICAL LOCATION.**

24 (a) IN GENERAL.—Except as provided in subsection
25 (b), a business entity that either initiates or receives a cus-

1 tomer service communication shall require that each of its
2 employees or agents participating in the communication
3 disclose their physical location at the beginning of each
4 customer service communication so initiated or received.

5 (b) EXCEPTIONS.—

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

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

19 (A) the customer service communication
20 was initiated by the consumer;

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

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

1 (3) EMERGENCY SERVICES.—The requirements
2 of subsection (a) shall not apply to a customer serv-
3 ice communication relating to the provision of emer-
4 gency services (as defined by the Federal Trade
5 Commission).

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

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

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

24 (e) REGULATIONS.—Not later than 1 year after the
25 date of the enactment of this Act, the Federal Trade Com-

1 mission shall promulgate such regulations as may be nec-
2 essary to carry out the provisions of this section.

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

7 **SEC. 6. ENFORCEMENT.**

8 (a) IN GENERAL.—Any failure to comply with the
9 provisions of section 5 shall be treated as a violation of
10 a regulation under section 18(a)(1)(B) of the Federal
11 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regard-
12 ing unfair or deceptive acts or practices.

13 (b) POWERS OF FEDERAL TRADE COMMISSION.—

14 (1) IN GENERAL.—The Federal Trade Commis-
15 sion shall prevent any person from violating section
16 5 and any regulation promulgated thereunder, in the
17 same manner, by the same means, and with the
18 same jurisdiction, powers, and duties as though all
19 applicable terms and provisions of the Federal Trade
20 Commission Act (15 U.S.C. 41 et seq.) were incor-
21 porated into and made a part of this Act.

22 (2) PENALTIES.—Any person who violates regu-
23 lations promulgated under section 5 shall be subject
24 to the penalties and entitled to the privileges and
25 immunities provided in the Federal Trade Commis-

1 sion Act in the same manner, by the same means,
2 and with the same jurisdiction, power, and duties as
3 though all applicable terms and provisions of the
4 Federal Trade Commission Act were incorporated
5 into and made part of this Act.

6 (c) **AUTHORITY PRESERVED.**—Nothing in this sec-
7 tion or section 5 shall be construed to limit the authority
8 of the Federal Trade Commission under any other provi-
9 sion of law.

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