

112TH CONGRESS  
1ST SESSION

# S. 1419

To prevent the use of stored value cards and other electronic fund access means as methods for currency smuggling or money laundering.

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IN THE SENATE OF THE UNITED STATES

JULY 26, 2011

Ms. KLOBUCHAR (for herself, Mr. UDALL of New Mexico, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To prevent the use of stored value cards and other electronic fund access means as methods for currency smuggling or money laundering.

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 “Anti-Cash Smuggling  
5 Act of 2011”.

6 **SEC. 2. ADDITION OF MEANS OF ACCESS TO FUNDS OR THE**  
7 **VALUE OF FUNDS.**

8 Chapter 53 of subtitle IV of title 31, United States  
9 Code, is amended—

1 (1) by inserting after section 5316 the following  
2 new section:

3 **“§ 5316A. Reports on exporting and importing means**  
4 **of access to funds**

5 “(a) REQUIRED REPORTS.—The Secretary of the  
6 Treasury (in this section referred to as the ‘Secretary’)  
7 shall, by regulation and subject to the limitations of this  
8 section, require reports concerning means of access to  
9 funds or the value of funds belonging or credited to a per-  
10 son that the person, agent, or bailee can use, including  
11 any prepaid or stored value cards to electronically—

12 “(1) initiate a transfer of funds;

13 “(2) obtain currency in place of funds or the  
14 value of funds; or

15 “(3) purchase goods or services.

16 “(b) LIMITATIONS.—Under the regulations issued  
17 under subsection (a), a person, or an agent or bailee of  
18 that person, shall be required to, file a report under this  
19 section only when the person, agent, or bailee knowingly—

20 “(1) transports, is about to transport, or has  
21 transported a means of access subject to subsection  
22 (a) from a place in the United States to or through  
23 a place outside of the United States or to a place  
24 in the United States from or through a place outside  
25 of the United States; or

1           “(2) receives a means of access subject to sub-  
2           section (a) transported into the United States from  
3           or through a place outside of the United States.

4           “(c) FILING CRITERIA.—A report under this section  
5           shall be filed at such time and place as the Secretary pre-  
6           scribes. The report shall contain, to the extent that the  
7           Secretary prescribes—

8           “(1) the legal capacity in which the person fil-  
9           ing the report is acting;

10           “(2) the origin, destination, and route of the  
11           means of access;

12           “(3) when the means of access is not legally  
13           and beneficially owned by the person transporting  
14           the means of access, or if the person transporting  
15           the means of access personally is not going to use  
16           it, the identity of the person that gave the means of  
17           access to the person transporting it, the identity of  
18           the person who is to receive it, or both;

19           “(4) the amount and kind of funds or the value  
20           of funds to which the means of access provides ac-  
21           cess, and the person to whom the funds or value of  
22           funds belong or are credited; and

23           “(5) such additional information as the Sec-  
24           retary deems appropriate to carry out this section.

1       “(d) EXCLUSION FOR COMMON CARRIERS.—This  
2 section does not apply to a common carrier of passengers  
3 when a passenger is transporting a means of access sub-  
4 ject to subsection (a), or to a common carrier of goods  
5 if the shipper does not declare the means of access subject  
6 to subsection (a).

7       “(e) ADDITIONAL AUTHORITY.—The Secretary may  
8 prescribe regulations under this section requiring a person  
9 that holds funds or the value of funds belonging or cred-  
10 ited to another person, and that provides such other per-  
11 son a means of access to such funds or value, to provide  
12 information at the time and place and in the manner pre-  
13 scribed by the Secretary in order to facilitate reporting  
14 under this section. Such information may include, placing  
15 conspicuous markings on any tangible mechanism that  
16 constitutes, or together with a personal identification  
17 number, code, or other input comprises, a means of access  
18 to funds or the value of funds in order to manifest report-  
19 able characteristics of the means of access.

20       “(f) MEANS OF ACCESS TO FUNDS OR THE VALUE  
21 OF FUNDS DEFINED.—The Secretary of the Treasury  
22 shall define the term ‘means of access to funds or the  
23 value of funds’ for purposes of this section. Such definition  
24 shall—

1           “(1) include means that a person, agent, or  
2           bailee can use to electronically—

3                   “(A) initiate transfers of funds;

4                   “(B) obtain currency in place of funds or  
5           the value of funds; or

6                   “(C) purchase goods or services;

7           “(2) include prepaid or stored value cards; and

8           “(3) not include debit cards or credit cards, as  
9           such terms are defined under section 603(r)(3) of  
10          the Fair Credit Reporting Act (15 U.S.C.  
11          1681a(r)(3)) and under section 103(k) of the Truth  
12          in Lending Act (15 U.S.C. 1602(k)), respectively.”;

13          (2) in section 5316—

14                   (A) by amending the section heading to  
15          read as follows:

16          “**§ 5316. Reports on exporting and importing mone-**  
17                   **tary instruments and access devices”;**

18          and

19                   (B) by amending subsection (a) to read as  
20          follows:

21           “(a) IN GENERAL.—Except as provided in subsection  
22          (c), a person or an agent or bailee of the person shall file  
23          a report under subsection (b) when the person, agent, or  
24          bailee knowingly—

1           “(1) transports, is about to transport, or has  
2 transported, monetary instruments, funds accessible  
3 by means of access defined by regulation under sec-  
4 tion 5316A, or a combination of monetary instru-  
5 ments and funds accessible by means of access de-  
6 fined by regulation under section 5316A, of more  
7 than \$10,000 at one time—

8           “(A) from a place in the United States to  
9 or through a place outside of the United States;

10 or

11           “(B) to a place in the United States from  
12 or through a place outside of the United States;

13 or

14           “(2) receives monetary instruments, funds ac-  
15 cessible by means of access defined by regulation  
16 under section 5316A, or a combination of monetary  
17 instruments and funds accessible by means of access  
18 defined by regulation under section 5316A, of more  
19 than \$10,000 at one time transported into the  
20 United States from or through a place outside of the  
21 United States.”;

22           (3) in section 5317—

23           (A) in the section heading, by inserting  
24           **“and access devices”** after **“instru-**  
25           **ments”**;

1 (B) by striking subsection (a) and insert-  
2 ing the following:

3 “(a) WARRANTS.—

4 “(1) IN GENERAL.—The Secretary of the  
5 Treasury (in this section referred to as the ‘Sec-  
6 retary’) may submit to a court of competent jurisdic-  
7 tion an application for a search warrant, which shall  
8 be accompanied by a statement of information in  
9 support of the warrant, when the Secretary reason-  
10 ably believes—

11 “(A) a monetary instrument or a tangible  
12 mechanism that constitutes, or together with a  
13 personal identification number, code, or other  
14 input comprises, a means of access to funds or  
15 the value of funds is being transported; and

16 “(B) a report on the instrument or means  
17 of access to funds or the value of funds under  
18 section 5316 or 5316A has not been filed or  
19 contains a material omission or misstatement.

20 “(2) GRANT OF APPLICATION.—On a showing  
21 of probable cause, the court may issue a search war-  
22 rant for a designated person or a designated or de-  
23 scribed place or physical object.

1           “(3) RULE OF CONSTRUCTION.—This sub-  
2           section does not affect the authority of the Secretary  
3           under any other provision of law.”;

4                   (C) in subsection (b), by inserting “or sec-  
5           tion 5316A” after “section 5316”; and

6                   (D) in subsection (c)—

7                           (i) in paragraph (1)(A)—

8                                   (I) by inserting “5316A,” after  
9                                   “5316,”; and

10                                   (II) by inserting “(including any  
11                                   tangible mechanism that constitutes,  
12                                   or together with a personal identifica-  
13                                   tion number, code, or other input  
14                                   comprises, a means of access to funds  
15                                   or the value of funds)” after “involved  
16                                   in the offense”; and

17                           (ii) in paragraph (2), by inserting  
18                                   “5316A,” after “5316,”;

19                   (4) in section 5324(c)—

20                           (A) in the subsection heading, by striking  
21                                   “MONETARY INSTRUMENT”;

22                           (B) by inserting “or 5316A” after “section  
23                                   5316” each place it appears; and



1 (C) in paragraph (3), by inserting “or  
2 means of access to funds or the value of funds”  
3 before the period at the end;

4 (5) in section 5332—

5 (A) in the section heading, by striking  
6 “**Bulk cash smuggling**” and inserting  
7 “**Smuggling of cash, monetary instru-**  
8 **ments, and means of access to funds**  
9 **or the value of funds**”;

10 (B) in subsection (a)—

11 (i) in paragraph (1)—

12 (I) by inserting “or 5316A” after  
13 “under section 5316”;

14 (II) by inserting “, or any tan-  
15 gible mechanism that constitutes, or  
16 together with a personal identification  
17 number, code, or other input com-  
18 prises, a means of access to funds or  
19 the value of funds,” after “monetary  
20 instruments” the first place it ap-  
21 pears; and

22 (III) by striking “such currency  
23 or monetary instruments” and insert-  
24 ing “such currency, other monetary

1 instruments, or tangible mechanism”;

2 and

3 (ii) in paragraph (2), by inserting “,  
4 other monetary instruments, or tangible  
5 mechanisms” after “concealment of cur-  
6 rency”; and

7 (C) in subsection (c)(3)—

8 (i) by striking “currency or other  
9 monetary instrument” the first place it ap-  
10 pears and inserting “currency, other mone-  
11 tary instrument, or tangible mechanism  
12 that constitutes, or together with a per-  
13 sonal identification number, code, or other  
14 input comprises, a means of access to  
15 funds or the value of funds”;

16 (ii) by striking “currency or other  
17 monetary instrument” the second place it  
18 appears and inserting “currency, other  
19 monetary instrument, or tangible mecha-  
20 nism”; and

21 (iii) by inserting “(including the funds  
22 or value of funds accessible by such tan-  
23 gible mechanism at the time of the of-  
24 fense)” after “facilitate the offense”; and

25 (6) in the table of sections—

1 (A) by striking the items relating to sec-  
2 tions 5316 and 5317 and inserting the fol-  
3 lowing:

“5316. Reports on exporting and importing monetary instruments and access devices.

“5316A. Reports on exporting and importing means of access to funds.

“5317. Search and forfeiture of monetary instruments and access devices.”;

4 and

5 (B) by striking the item relating to section  
6 5332 and inserting the following:

“5332. Smuggling of cash, monetary instruments, and means of access to funds or the value of funds into or out of the United States.”.

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