

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 6291  
OFFERED BY MR. PALLONE OF NEW JERSEY**

Add at the end the following:

1 **SEC. 5. PROHIBITION ON DATA BROKERS WITH RESPECT**  
2 **TO PERSONAL DATA OF CERTAIN MINORS.**

3 The Children’s Online Privacy Protection Act of 1998  
4 (15 U.S.C. 6501 et seq.) is amended by adding at the end  
5 the following:

6 **“SEC. 1309. PROHIBITION ON DATA BROKERS WITH RE-**  
7 **SPECT TO PERSONAL DATA OF CERTAIN MI-**  
8 **NORS.**

9 “(a) PROHIBITION.—

10 “(1) IN GENERAL.—An entity acting as a data  
11 broker may not—

12 “(A) collect, use, or maintain any personal  
13 data of an individual that the data broker  
14 knows is a child or teen; or

15 “(B) sell, license, rent, trade, transfer, re-  
16 lease, disclose, provide access to, or otherwise  
17 make available any personal data of an indi-  
18 vidual that the data broker knows is a child or  
19 teen.

1           “(2) EXCEPTIONS.—

2                   “(A) An entity acting as a data broker  
3           may collect, use, or maintain only such minimal  
4           personal data of an individual that the entity  
5           knows is a child or teen that is necessary to en-  
6           sure compliance with paragraph (1)(A) or sub-  
7           section (b) and shall not collect, use, or main-  
8           tain such personal data for any other purpose  
9           than for such compliance.

10                   “(B) Nothing in this section shall prohibit  
11           an entity acting as a data broker from using or  
12           maintaining personal data of an individual that  
13           the entity knows is a child or teen solely for the  
14           following purposes, provided that such data is  
15           not sold, licensed, rented, traded, transferred,  
16           released, disclosed, provided access to, or other-  
17           wise made available for valuable consideration:

18                           “(i) To comply with a legal obligation  
19                           imposed by Federal, State, or local law.

20                           “(ii) To investigate, establish, prepare  
21                           for, exercise, or defend a legal claim tar-  
22                           geted at or involving the entity acting as a  
23                           data broker.

24                           “(iii) To comply with a preservation  
25                           request, subpoena, court order, or other

1                   legal process issued by a Federal, State, or  
2                   local law enforcement authority or pursu-  
3                   ant to a civil, criminal, or administrative  
4                   proceeding.

5           “(b) DELETION OF PERSONAL DATA.—

6                   “(1) IN GENERAL.—An entity acting as a data  
7           broker shall—

8                           “(A) delete any personal data of an indi-  
9                   vidual that the entity knows is a child or teen  
10                   maintained by the entity that the entity did not  
11                   collect directly from such individual; and

12                           “(B) establish a mechanism to submit a  
13                   request to the entity to delete any such personal  
14                   data that may be used by—

15                                   “(i) a teen;

16                                   “(ii) a parent or legal guardian of a  
17                   child; and

18                                   “(iii) an agent acting at the request of  
19                   a teen or a parent or legal guardian of a  
20                   child.

21                   “(2) PROCESS.—Not later than 45 days after  
22           the date on which a teen, a parent or legal guardian  
23           of a child, or an agent acting at the request of a  
24           teen or a parent or legal guardian of a child submits  
25           a request pursuant to the mechanism established

1 under paragraph (1)(B), an entity acting as a data  
2 broker shall carry out the following responsibilities:

3 “(A) Verify, with commercially reasonable  
4 effort, the identity of the individual who sub-  
5 mitted such request and, if applicable, the au-  
6 thority of such individual to submit such re-  
7 quest.

8 “(B) Identify any personal data of the  
9 child or teen maintained by the entity relevant  
10 to such request.

11 “(C) Delete any personal data identified  
12 under subparagraph (B).

13 “(D) Notify the individual who submitted  
14 the request of the deletion under subparagraph  
15 (C) upon completion.

16 “(3) NOTICE.—An entity acting as a data  
17 broker shall make publicly available (such as on a  
18 website of the entity), in a clear and conspicuous  
19 manner, information written in plain language relat-  
20 ing to—

21 “(A) the mechanism established by the en-  
22 tity under paragraph (1)(B); and

23 “(B) the responsibilities of the entity  
24 under paragraph (2).

1           “(4) EXCEPTIONS FOR LAW ENFORCEMENT  
2           AND LEGAL PROCESS.—Nothing in this subsection  
3           requires an entity acting as a data broker to delete  
4           any personal data subject to a preservation request,  
5           subpoena, or court order—

6                   “(A) issued by a Federal, State, or local  
7                   law enforcement authority (for which the data  
8                   broker shall preserve any such personal data for  
9                   the period required by any such legal process  
10                  or, if unspecified, for a period not to exceed 180  
11                  days unless extended by court order); or

12                   “(B) pursuant to a civil, criminal, or ad-  
13                   ministrative proceeding.

14           “(c) ENFORCEMENT.—

15                   “(1) ENFORCEMENT BY COMMISSION.—

16                           “(A) UNFAIR OR DECEPTIVE ACTS OR  
17                           PRACTICES.—A violation of this section shall be  
18                           treated as a violation of a regulation under sec-  
19                           tion 18(a)(1)(B) of the Federal Trade Commis-  
20                           sion Act (15 U.S.C. 57a(a)(1)(B)) regarding  
21                           unfair or deceptive acts or practices.

22                           “(B) POWERS OF COMMISSION.—The Com-  
23                           mission shall enforce this section in the same  
24                           manner, by the same means, and with the same  
25                           jurisdiction, powers, and duties as though all

1 applicable terms and provisions of the Federal  
2 Trade Commission Act (15 U.S.C. 41 et seq.)  
3 were incorporated into and made a part of this  
4 Act, and any person who violates such section  
5 shall be subject to the penalties and entitled to  
6 the privileges and immunities provided in the  
7 Federal Trade Commission Act.

8 “(C) AUTHORITY PRESERVED.—Nothing in  
9 this paragraph may be construed to limit the  
10 authority of the Commission under any other  
11 provision of law.

12 “(2) ENFORCEMENT BY STATES.—

13 “(A) IN GENERAL.—In any case in which  
14 the attorney general of a State, or an official or  
15 agency of a State, has reason to believe that an  
16 interest of the residents of such State has been  
17 or is threatened or adversely affected by an act  
18 or practice in violation of this section, the  
19 State, as *parens patriae*, may bring a civil ac-  
20 tion on behalf of the residents of the State in  
21 an appropriate district court of the United  
22 States to—

23 “(i) enjoin such act or practice;

24 “(ii) enforce compliance with such  
25 section;

1                   “(iii) obtain damages, restitution, or  
2                   other compensation on behalf of residents  
3                   of the State; or

4                   “(iv) obtain such other legal and equi-  
5                   table relief as the court may consider to be  
6                   appropriate.

7                   “(B) NOTICE.—Before filing an action  
8                   under this paragraph, the attorney general, offi-  
9                   cial, or agency of the State involved shall pro-  
10                  vide to the Commission a written notice of such  
11                  action and a copy of the complaint for such ac-  
12                  tion. If the attorney general, official, or agency  
13                  determines that it is not feasible to provide the  
14                  notice described in this subparagraph before the  
15                  filing of the action, the attorney general, offi-  
16                  cial, or agency shall provide written notice of  
17                  the action and a copy of the complaint to the  
18                  Commission immediately upon the filing of the  
19                  action.

20                  “(C) AUTHORITY OF COMMISSION.—

21                  “(i) IN GENERAL.—On receiving no-  
22                  tice under subparagraph (B) of an action  
23                  under this paragraph, the Commission  
24                  shall have the right—

25                  “(I) to intervene in the action;

1                   “(II) upon so intervening, to be  
2                   heard on all matters arising therein;  
3                   and

4                   “(III) to file petitions for appeal.

5                   “(ii) LIMITATION ON STATE ACTION  
6                   WHILE FEDERAL ACTION IS PENDING.—If  
7                   the Commission or the Attorney General of  
8                   the United States has instituted a civil ac-  
9                   tion for violation of this section (referred  
10                  to in this clause as the ‘Federal action’),  
11                  no State attorney general, official, or agen-  
12                  cy may bring an action under this para-  
13                  graph during the pendency of the Federal  
14                  action against any defendant named in the  
15                  complaint in the Federal action for any  
16                  violation of such section alleged in such  
17                  complaint.

18                  “(D) RULE OF CONSTRUCTION.—For pur-  
19                  poses of bringing a civil action under this para-  
20                  graph, nothing in this Act may be construed to  
21                  prevent an attorney general, official, or agency  
22                  of a State from exercising the powers conferred  
23                  on the attorney general, official, or agency by  
24                  the laws of such State to conduct investigations,  
25                  administer oaths and affirmations, or compel

1           the attendance of witnesses or the production of  
2           documentary and other evidence.

3           “(E) SAVINGS PROVISION.—Nothing in  
4           this paragraph may be construed to prohibit an  
5           authorized official of a State from initiating or  
6           continuing any proceeding in a court of the  
7           State for a violation of any civil or criminal law  
8           of the State.

9           “(d) EFFECTIVE DATE.—This section shall take ef-  
10          fect on the date that is 180 days after the date of the  
11          enactment of this section.

12          “(e) DEFINITIONS.—In this section:

13           “(1) DATA BROKER.—

14           “(A) IN GENERAL.—The term ‘data  
15           broker’ means an entity that, for valuable con-  
16           sideration, sells, licenses, rents, trades, trans-  
17           fers, releases, discloses, provides access to, or  
18           otherwise makes available to another entity per-  
19           sonal data of an individual that the entity did  
20           not collect directly from such individual.

21           “(B) EXCEPTIONS.—The term “data  
22           broker” does not include an entity to the extent  
23           that the entity does any of the following:

24           “(i) Acts as a service provider.

1                   “(ii) Provides, maintains, or offers a  
2                   product or service with respect to which  
3                   personal data, or access to personal data,  
4                   is not the product or service.

5                   “(iii) Transmits personal data of an  
6                   individual, including any communication of  
7                   such individual, at the request or direction  
8                   of such individual.

9                   “(iv) Reports or publishes news or in-  
10                  formation that concerns local, national, or  
11                  international events or other matters of  
12                  public interest.

13                  “(2) KNOWS.—The term ‘knows’ means to have  
14                  actual knowledge or knowledge fairly implied on the  
15                  basis of objective circumstances.

16                  “(3) PERSONAL DATA.—The term ‘personal  
17                  data’ means information that identifies or is linked  
18                  or reasonably linkable, alone or in combination with  
19                  other information, to an individual or a device that  
20                  identifies is linked or reasonably linkable to an indi-  
21                  vidual.

22                  “(4) SERVICE PROVIDER.—The term ‘service  
23                  provider’ means an entity that collects, processes, or  
24                  transfers personal data on behalf of, and at the di-  
25                  rection of, any of the following:

1           “(A) The individual to whom such personal  
2 data pertains.

3           “(B) A parent or legal guardian of the in-  
4 dividual to whom such personal data pertains.

5           “(C) A Federal, State, or local govern-  
6 mental entity.

7           “(D) The National Center for Missing and  
8 Exploited Children.

9           “(E) A nonprofit organization with a pri-  
10 mary mission is to prevent, investigate, or deter  
11 fraud, to train anti-fraud professionals, or to  
12 educate the public about fraud, to the extent  
13 that such organization collects, processes, or  
14 transfers personal data in furtherance of such  
15 primary mission.

16           “(F) Any other entity acting at the direc-  
17 tion of an individual or entity described in sub-  
18 paragraph (A), (B), (C), (D), or (E).

19           “(5) STATE.—The term ‘State’ means each  
20 State of the United States, the District of Columbia,  
21 each commonwealth, territory, or possession of the  
22 United States, and each federally recognized Indian  
23 Tribe.

1           “(6) TEEN.—The term ‘teen’ means an indi-  
2           vidual who has attained age 13 years and is under  
3           the age of 18 years.”.

