

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 6291  
OFFERED BY MR. RUIZ OF CALIFORNIA**

Add at the end the following:

1 **SEC. 5. PROHIBITION ON SALE OF PERSONAL DATA OF**  
2 **CHILDREN TO IMMIGRATION AND CUSTOMS**  
3 **ENFORCEMENT.**

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

7 **“SEC. 1309. PROHIBITION ON SALE OF PERSONAL DATA OF**  
8 **CHILDREN TO IMMIGRATION AND CUSTOMS**  
9 **ENFORCEMENT.**

10 “(a) PROHIBITION.—An entity acting as a data  
11 broker may not sell personal data of an individual that  
12 the data broker knows is a child to U.S. Immigration and  
13 Customs Enforcement.

14 “(b) 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-

1           sion Act (15 U.S.C. 57a(a)(1)(B)) regarding  
2           unfair or deceptive acts or practices.

3           “(B) POWERS OF COMMISSION.—The Com-  
4           mission shall enforce this section in the same  
5           manner, by the same means, and with the same  
6           jurisdiction, powers, and duties as though all  
7           applicable terms and provisions of the Federal  
8           Trade Commission Act (15 U.S.C. 41 et seq.)  
9           were incorporated into and made a part of this  
10          Act, and any person who violates such section  
11          shall be subject to the penalties and entitled to  
12          the privileges and immunities provided in the  
13          Federal Trade Commission Act.

14          “(C) AUTHORITY PRESERVED.—Nothing in  
15          this paragraph may be construed to limit the  
16          authority of the Commission under any other  
17          provision of law.

18          “(2) ENFORCEMENT BY STATES.—

19          “(A) IN GENERAL.—In any case in which  
20          the attorney general of a State, or an official or  
21          agency of a State, has reason to believe that an  
22          interest of the residents of such State has been  
23          or is threatened or adversely affected by an act  
24          or practice in violation of this section, the  
25          State, as *parens patriae*, may bring a civil ac-

1           tion on behalf of the residents of the State in  
2           an appropriate district court of the United  
3           States to—

4                   “(i) enjoin such act or practice;

5                   “(ii) enforce compliance with such  
6           section;

7                   “(iii) obtain damages, restitution, or  
8           other compensation on behalf of residents  
9           of the State; or

10                   “(iv) obtain such other legal and equi-  
11           table relief as the court may consider to be  
12           appropriate.

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

1 “(C) AUTHORITY OF COMMISSION.—

2 “(i) IN GENERAL.—On receiving no-  
3 tice under subparagraph (B) of an action  
4 under this paragraph, the Commission  
5 shall have the right—

6 “(I) to intervene in the action;

7 “(II) upon so intervening, to be  
8 heard on all matters arising therein;  
9 and

10 “(III) to file petitions for appeal.

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

24 “(D) RULE OF CONSTRUCTION.—For pur-  
25 poses of bringing a civil action under this para-

1 graph, nothing in this Act may be construed to  
2 prevent an attorney general, official, or agency  
3 of a State from exercising the powers conferred  
4 on the attorney general, official, or agency by  
5 the laws of such State to conduct investigations,  
6 administer oaths and affirmations, or compel  
7 the attendance of witnesses or the production of  
8 documentary and other evidence.

9 “(E) SAVINGS PROVISION.—Nothing in  
10 this paragraph may be construed to prohibit an  
11 authorized official of a State from initiating or  
12 continuing any proceeding in a court of the  
13 State for a violation of any civil or criminal law  
14 of the State.

15 “(c) EFFECTIVE DATE.—This section shall take ef-  
16 fect on the date that is 180 days after the date of the  
17 enactment of this section.

18 “(d) DEFINITIONS.—In this section:

19 “(1) DATA BROKER.—

20 “(A) IN GENERAL.—The term ‘data  
21 broker’ means an entity that, for valuable con-  
22 sideration, sells, licenses, rents, trades, trans-  
23 fers, releases, discloses, provides access to, or  
24 otherwise makes available to another entity per-

1           sonal data of an individual that the entity did  
2           not collect directly from such individual.

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

6                   “(i) Acts as a service provider.

7                   “(ii) Provides, maintains, or offers a  
8                   product or service with respect to which  
9                   personal data, or access to personal data,  
10                  is not the product or service.

11                  “(iii) Transmits personal data of an  
12                  individual, including any communication of  
13                  such individual, at the request or direction  
14                  of such individual.

15                  “(iv) Reports or publishes news or in-  
16                  formation that concerns local, national, or  
17                  international events or other matters of  
18                  public interest.

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

22           “(3) PERSONAL DATA.—The term ‘personal  
23           data’ means information that identifies or is linked  
24           or reasonably linkable, alone or in combination with  
25           other information, to an individual or a device that

1 identifies is linked or reasonably linkable to an indi-  
2 vidual.

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

7 “(A) The individual to whom such personal  
8 data pertains.

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

11 “(C) A Federal, State, or local govern-  
12 mental entity.

13 “(D) The National Center for Missing and  
14 Exploited Children.

15 “(E) A nonprofit organization with a pri-  
16 mary mission is to prevent, investigate, or deter  
17 fraud, to train anti-fraud professionals, or to  
18 educate the public about fraud, to the extent  
19 that such organization collects, processes, or  
20 transfers personal data in furtherance of such  
21 primary mission.

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

1           “(5) STATE.—The term ‘State’ means each  
2           State of the United States, the District of Columbia,  
3           each commonwealth, territory, or possession of the  
4           United States, and each federally recognized Indian  
5           Tribe.”.

