

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 6265**  
**OFFERED BY M .** \_\_\_\_\_

Strike all after the enacting clause and insert the following:

1    **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Safer Guarding of Adolescents from Malicious Interactions on Network Games Act” or the “Safer GAMING Act”.

5 SEC. 2. SAFEGUARD REQUIREMENTS FOR ONLINE VIDEO  
6 GAME PROVIDERS.

7 (a) DEFINITIONS.—In this section:

8 (1) COVERED USER.—The term “covered user”  
9 means a user of an interactive online video game if  
10 the provider of such game—

11                   (A) has actual knowledge that such user is  
12                   a minor; or

13 (B) would know that such user is a minor  
14 if not for willful disregard.

(2) INTERACTIVE ONLINE VIDEO GAME.—The term “interactive online video game” means a video game that—

18 (A) connects to the internet; and

1 (B) allows a user of such video game to  
2 communicate with other users of such video  
3 game.

4 (3) MINOR.—The term “minor” means an indi-  
5 vidual under the age of 16 years.

6 (4) ONLINE VIDEO GAME PROVIDER.—The term  
7 “online video game provider” means a person that  
8 provides an interactive online video game through a  
9 website, mobile application, or other online means  
10 directly to a consumer for the use of the consumer.

11 (5) PARENT.—The term “parent” means the  
12 legal guardian of a minor.

13 (6) VIDEO GAME.—The term “video game”  
14 means a software program that—

15 (A) receives and stores data or instructions  
16 generated by the user of such software pro-  
17 gram; and

18 (B) processes such data or instructions to  
19 create an interactive game for such user to play  
20 on a computer, gaming system, console, mobile  
21 device, or other technological means.

22 (b) SAFEGUARDS REQUIRED.—

23 (1) IN GENERAL.—An online video game pro-  
24 vider shall provide safeguards to the parent of a cov-  
25 ered user of an interactive online video game of such

1 provider that allow the parent to limit communica-  
2 tion between such user and any other user of such  
3 interactive online video game.

4 (2) FEATURES.—

5 (A) IN GENERAL.—An online video game  
6 provider required to provide safeguards under  
7 paragraph (1) shall ensure the safeguards  
8 are—

9 (i) accessible and easy-to use;

10 (ii) enabled by default on the account  
11 of a covered user of the interactive online  
12 video game of such provider; and

13 (iii) set to the most protective level of  
14 control by default on the account of the  
15 user.

16 (B) PROTECTIVE LEVEL OF CONTROL.—

17 For purposes of subparagraph (A), the most  
18 protective level of control means the safe-  
19 guards—

20 (i) are set to the most restrictive set-  
21 ting by default; and

22 (ii) may be set to a less restrictive set-  
23 ting only by the parent of a covered user.

24 (3) DEVICE CONTROLS.—Nothing in this sec-  
25 tion may be construed to prohibit an online video

1 game provider from enabling the parent of a covered  
2 user to limit or allow communication between the  
3 user and any other user or limit or allow commu-  
4 nication between the covered user and multiple other  
5 users.

6 (4) EFFECTIVE DATE.—This subsection shall  
7 take effect on the date that is 1 year after the date  
8 of the enactment of this Act.

9 (c) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
10 SION.—

11 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
12 TICES.—A violation of subsection (b) shall be treated  
13 as a violation of a regulation under section  
14 18(a)(1)(B) of the Federal Trade Commission Act  
15 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or decep-  
16 tive acts or practices.

17 (2) POWERS OF COMMISSION.—The Federal  
18 Trade Commission shall enforce subsection (b) in  
19 the same manner, by the same means, and with the  
20 same jurisdiction, powers, and duties as though all  
21 applicable terms and provisions of the Federal Trade  
22 Commission Act (15 U.S.C. 41 et seq.) were incor-  
23 porated into and made a part of this section. Any  
24 person who violates subsection (b) shall be subject to  
25 the penalties and entitled to the privileges and im-

1 munities provided in the Federal Trade Commission  
2 Act.

3 (3) AUTHORITY PRESERVED.—Nothing in this  
4 section may be construed to limit the authority of  
5 the Federal Trade Commission under any other pro-  
6 vision of law.

7 (d) ACTIONS BY STATES.—

8 (1) IN GENERAL.—In any case in which the at-  
9 torney general of a State, or an official or agency of  
10 a State, has reason to believe that an interest of the  
11 residents of such State has been or is threatened or  
12 adversely affected by an act or practice in violation  
13 of subsection (b), the State, as *parens patriae*, may  
14 bring a civil action on behalf of the residents of the  
15 State in an appropriate State court or an appro-  
16 priate district court of the United States to—

17 (A) enjoin such act or practice;

18 (B) enforce compliance with such sub-  
19 section;

20 (C) obtain damages, restitution, or other  
21 compensation on behalf of residents of the  
22 State; or

23 (D) obtain such other legal and equitable  
24 relief as the court may consider to be appro-  
25 priate.

1           (2) NOTICE.—Before filing an action under this  
2       subsection, the attorney general, official, or agency  
3       of the State involved shall provide to the Federal  
4       Trade Commission a written notice of such action  
5       and a copy of the complaint for such action. If the  
6       attorney general, official, or agency determines that  
7       it is not feasible to provide the notice described in  
8       this paragraph before the filing of the action, the at-  
9       torney general, official, or agency shall provide writ-  
10      ten notice of the action and a copy of the complaint  
11      to the Federal Trade Commission immediately upon  
12      the filing of the action.

13           (3) AUTHORITY OF FEDERAL TRADE COMMIS-  
14      SION.—

15           (A) IN GENERAL.—On receiving notice  
16      under paragraph (2) of an action under this  
17      subsection, the Federal Trade Commission shall  
18      have the right—

19                   (i) to intervene in the action; and

20                   (ii) upon so intervening—

21                           (I) to be heard on all matters  
22                           arising therein; and

23                           (II) to file petitions for appeal.

24           (B) LIMITATION ON STATE ACTION WHILE  
25      FEDERAL ACTION IS PENDING.—If the Federal

1 Trade Commission or the Attorney General of  
2 the United States has instituted a civil action  
3 for violation of subsection (b) (referred to in  
4 this subparagraph as the “Federal action”), no  
5 State attorney general, official, or agency may  
6 bring an action under this subsection during  
7 the pendency of the Federal action against any  
8 defendant named in the complaint in the Fed-  
9 eral action for any violation of such subsection  
10 alleged in such complaint.

11 (4) RULE OF CONSTRUCTION.—For purposes of  
12 bringing a civil action under this subsection, nothing  
13 in this Act shall be construed to prevent an attorney  
14 general, official, or agency of a State from exercising  
15 the powers conferred on the attorney general, offi-  
16 cial, or agency by the laws of such State to conduct  
17 investigations, administer oaths and affirmations, or  
18 compel the attendance of witnesses or the production  
19 of documentary and other evidence.

20 (e) PREEMPTION.—

21 (1) IN GENERAL.—No State or political subdivi-  
22 sion of a State may prescribe, maintain, or enforce  
23 any law, rule, regulation, requirement, standard, or  
24 other provision having the force and effect of law to  
25 the extent such law, rule, regulation, requirement,

1 standard, or other provision regulates the ability of  
2 a user of an interactive online video game who is a  
3 minor to communicate with another user of such  
4 interactive online video game.

5 (2) RULE OF CONSTRUCTION.—Nothing in  
6 paragraph (1) may be construed to—

7 (A) limit the enforcement of any consumer  
8 protection law of a State or political subdivision  
9 of a State;

10 (B) preempt the applicability of State tres-  
11 pass, contract, or tort law; or

12 (C) preempt the applicability of any State  
13 law to the extent that the law relates to acts of  
14 fraud, unauthorized access to personal informa-  
15 tion, or notification of unauthorized access to  
16 personal information.

