

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 6273**  
**OFFERED BY M\_\_.** \_\_\_\_\_

Strike all after the enacting clause and insert the following:

**1 SEC. 1. SHORT TITLE.**

2 This Act may be cited as the “Stop Profiling Youth  
3 and Kids Act” or the “SPY Kids Act”.

**4 SEC. 2. DEFINITIONS.**

5 In this Act:

6 (2) COMMISSION.—The term “Commission”  
7 means the Federal Trade Commission.

8 (3) COVERED PLATFORM.—The term “covered  
9 platform” means a platform that is a website, soft-  
10 ware, application, or electronic service connected to  
11 the internet that—

12 (A) is publicly available for use by con-  
13 sumers;

14 (B) enables the creation of a username or  
15 user identifier—

16 (i) that is searchable on the platform;  
17 and

1 (ii) that can be followed by or is oth-  
2 erwise accessible to other users of the plat-  
3 form;

4 (C) as the primary purpose of the plat-  
5 form, facilitates the sharing and access to user-  
6 generated content through text, images, video,  
7 audio, or any other interactive medium;

8 (D) uses a design feature to promote user  
9 engagement on the platform; and

(E) uses the personal information of the user to advertise, market, or make content recommendations.

13 (4) DESIGN FEATURE.—The term “design fea-  
14 ture”—

15 (A) means any feature or component of a  
16 covered platform that encourages or increases  
17 the frequency, time spent, or activity of a user  
18 on the covered platform; and

19 (B) includes any of the following:

20 (i) Infinite scrolling or auto play.

(ii) Rewards or incentives based on the frequency, time spent, or activity of a minor on the covered platform.

### 24 (iii) Notifications and push alerts.

1 (iv) Badges or other visual award  
2 symbols based on the frequency, time  
3 spent, or activity of a user on the covered  
4 platform.

## 5 (v) Appearance altering filters.

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

13 (9) PERSONAL INFORMATION.—The term “per-  
14 sonal information” has the meaning given that term  
15 in section 1302 of the Children’s Online Privacy  
16 Protection Act of 1998 (15 U.S.C. 6501).

17 (10) STATE.—The term “State” means each  
18 State of the United States, the District of Columbia,  
19 each commonwealth, territory, or possession of the  
20 United States, and each federally recognized Indian  
21 Tribe.

22 (11) USER.—The term “user” means, with re-  
23 spect to a covered platform, an individual who reg-  
24 isters an account or creates a profile on the covered  
25 platform.

**1 SEC. 3. MARKET RESEARCH.**

2 (a) PROHIBITION OF RESEARCH ON MINORS.—A cov-  
3 ered platform may not, in the case of a user or visitor  
4 that the covered platform knows is a minor, conduct mar-  
5 ket or product-focused research on such minor unless the  
6 research is—

7 (1) used solely to improve the privacy, security,  
8 transparency, or safety of a covered platform, in-  
9 cluding of a design feature or any safeguard, setting,  
10 or tool offered to a minor or the parent of a minor;  
11 or

12 (2) necessary for compliance with a Federal or  
13 State law.

14 (c) RULE OF CONSTRUCTION.—Nothing in this Act  
15 may be construed to limit the processing of personal infor-  
16 mation solely for measuring or reporting advertising or  
17 content performance, reach, or frequency, including  
18 through an independent measurement.

**19 SEC. 4. ENFORCEMENT.**

20 (a) ENFORCEMENT BY COMMISSION.—

21 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
22 TICES.—A violation of this Act shall be treated as  
23 a violation of a regulation under section 18(a)(1)(B)  
24 of the Federal Trade Commission Act (15 U.S.C.  
25 57a(a)(1)(B)) regarding unfair or deceptive acts or  
26 practices.

11 (b) ACTIONS BY STATES.—

21 (A) enjoin such act or practice;

22 (B) enforce compliance with this Act;

23 (C) obtain damages, restitution, or other  
24 compensation on behalf of residents of the  
25 State; or

1 (D) obtain such other legal and equitable  
2 relief as the court may consider to be appro-  
3 priate.

(2) NOTICE.—Before filing an action under this subsection, the attorney general, official, or agency of the State involved shall provide to the Commission a written notice of such action and a copy of the complaint for such action. If the attorney general, official, or agency determines that it is not feasible to provide the notice described in this paragraph before the filing of the action, the attorney general, official, or agency shall provide written notice of the action and a copy of the complaint to the Commission immediately upon the filing of the action.

16 (3) AUTHORITY OF COMMISSION.—

21 (i) to intervene in the action; and

22 (ii) upon so intervening—

23 (I) to be heard on all matters  
24 arising therein; and

25 (II) to file petitions for appeal.

(B) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission or the Attorney General of the United States has instituted a civil action for violation of this Act (referred to in this subparagraph as the “Federal action”), no State attorney general, official, or agency may bring an action under this subsection during the pendency of the Federal action against any defendant named in the complaint in the Federal action for any violation of this Act alleged in such complaint.

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

## 22 SEC. 5. RULES OF CONSTRUCTION.

23 Nothing in this Act may be construed to—

24 (1) limit or impair the Children's Online Pri-  
25 vacy Protection Act of 1998 (15 U.S.C. 6501 et

1        seq.) or any rule or regulation promulgated under  
2        such Act; or  
3                (2) limit the authority of the Commission under  
4        any other provision of law.

**5 SEC. 6. RELATIONSHIP TO STATE LAWS.**

6        (a) **IN GENERAL.**—No State or political subdivision  
7        of a State may prescribe, maintain, or enforce any law,  
8        rule, regulation, requirement, standard, or other provision  
9        having the force and effect of law, to the extent such law,  
10       rule, regulation, requirement, standard, or other provision  
11       regulates the ability of a covered platform to conduct mar-  
12       ket or product-focused research on a minor.

13       (b) **RULE OF CONSTRUCTION.**—Nothing in sub-  
14       section (a) may be construed to—

15               (1) limit the enforcement of any consumer pro-  
16        tection law of a State or political subdivision of a  
17        State;

18               (2) preempt the applicability of State trespass,  
19        contract, or tort law; or

20               (3) preempt the applicability of any State law  
21        to the extent that the law relates to acts of fraud,  
22        unauthorized access to personal information, or noti-  
23        fication of unauthorized access to personal informa-  
24        tion.

1 **SEC. 7. EFFECTIVE DATE.**

2        Except as otherwise provided in this Act, this Act  
3 shall take effect on the date that is 90 days after the date  
4 of the enactment of this Act.

