To amend the Federal Trade Commission Act to specify certain effects of guidelines, general statements of policy, and similar guidance issued by the Federal Trade Commission.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2016

Mr. Pompeo (for himself, Mr. Burgess, Mr. Mullin, Mr. Harper, Mrs. Blackburn, and Mr. Lance) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Trade Commission Act to specify certain effects of guidelines, general statements of policy, and similar guidance issued by the Federal Trade Commission.

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 “Solidifying Habitual
5 and Institutional Explanations of Liability and Defenses
6 Act” or the “SHIELD Act”.

SEC. 2. EFFECTS OF GUIDELINES, GENERAL STATEMENTS
OF POLICY, AND SIMILAR GUIDANCE.

Section 18(a) of the Federal Trade Commission Act
(15 U.S.C. 57a(a)) is amended by adding at the end the
following:

“(3)(A) No guidelines, general statements of policy,
or similar guidance issued by the Commission shall confer
any rights upon any person, State, or locality, nor shall
operate to bind the Commission or any person, State, or
locality to the approach recommended in such guidelines,
general statements of policy, or similar guidance. In any
enforcement action, the Commission shall prove a violation
of a provision of law enforced by the Commission. The
Commission may not base an enforcement action on, or
execute a consent order based on, acts or practices that
are alleged to be inconsistent with any such guidelines,
general statements of policy, or similar guidance, unless
the acts or practices violate a provision of law enforced
by the Commission.

“(B) Compliance with any guidelines, general state-
ment of policy, or similar guidance issued by the Commis-
sion may be used as evidence of compliance with the provi-
sion of law under which the guidelines, general statement
of policy, or guidance was issued.

“(C) Nothing in this paragraph shall be construed to
confer any authority upon or negate any authority of the
Commission to issue guidelines, general statements of policy, or similar guidance.”