

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1623**

OFFERED BY M .

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Shielding Children’s
3 Retinas from Egregious Exposure on the Net Act” or the
4 “SCREEN Act”.

5 SEC. 2. DEFINITIONS.

6 In this Act:

7 (1) CHILD PORNOGRAPHY; MINOR.—The terms
8 “child pornography” and “minor” have the mean-
9 ings given those terms in section 2256 of title 18,
10 United States Code.

11 (2) COMMISSION.—The term “Commission”
12 means the Federal Trade Commission.

13 (3) COVERED PLATFORM.—The term “covered
14 platform” means a website or other online plat-
15 form—

16 (A) that is accessible by the public;

1 (B) with respect to which more than one-
2 third of the material made available thereon is
3 sexual material harmful to minors; and

4 (C) with respect to which the provider of
5 such platform knowingly makes available the
6 sexual material harmful to minors described in
7 subparagraph (B).

8 (4) SEXUAL ACT; SEXUAL CONTACT.—The
9 terms “sexual act” and “sexual contact” have the
10 meanings given those terms in section 2246 of title
11 18, United States Code.

12 (5) SEXUAL MATERIAL HARMFUL TO MINORS.—
13 The term “sexual material harmful to minors”
14 means a picture, image, graphic image file, film, vid-
15 eotape, or other visual depiction that—

16 (A)(i) taken as a whole and with respect to
17 minors, appeals to the prurient interest in nu-
18 dity, sex, or excretion;

19 (ii) depicts, describes, or represents, in a
20 patently offensive way with respect to what is
21 suitable for minors, an actual or simulated sex-
22 ual act or sexual contact, actual or simulated
23 normal or perverted sexual acts, or lewd exhi-
24 bition of the genitals; and

1 (iii) taken as a whole, lacks serious lit-
2 erary, artistic, political, or scientific value as to
3 minors; or

4 (B) is child pornography.

5 (6) TECHNOLOGY VERIFICATION MEASURE.—

6 The term “technology verification measure” means
7 technology that—

8 (A) employs a system or process to deter-
9 mine whether it is more likely than not that a
10 user of a covered platform is a minor; and

11 (B) prevents access by minors to any sex-
12 ual material harmful to minors on a covered
13 platform.

14 (7) TECHNOLOGY VERIFICATION MEASURE

15 DATA.—The term “technology verification measure
16 data” means information that—

17 (A) identifies, is linked to, or is reasonably
18 linkable to an individual or a device that identi-
19 fies, is linked to, or is reasonably linkable to an
20 individual;

21 (B) is collected or processed for the pur-
22 pose of fulfilling a request by an individual to
23 access a covered platform or material on a cov-
24 ered platform; and

1 (C) is collected and processed solely for the
2 purpose of utilizing a technology verification
3 measure pursuant to this Act.

4 **SEC. 3. TECHNOLOGY VERIFICATION MEASURES.**

5 (a) COVERED PLATFORM REQUIREMENTS.—Begin-
6 ning on the date that is 1 year after the date of the enact-
7 ment of this Act, a provider of a covered platform shall
8 adopt and utilize technology verification measures with re-
9 spect to the covered platform of such provider to ensure
10 that—

11 (1) users of the covered platform are not mi-
12 nors; and

13 (2) minors are prevented from accessing any
14 sexual material harmful to minors on the covered
15 platform.

16 (b) ADDITIONAL REQUIREMENTS FOR COMPLI-
17 ANCE.—In order to comply with subsection (a), a provider
18 of a covered platform shall, with respect to the covered
19 platform of the provider, carry out the following:

20 (1) Use a technology verification measure in
21 order to verify a user's age.

22 (2) Provide that a user confirming that the user
23 is not a minor is not sufficient to verify age.

24 (3) Make publicly available information on the
25 processes utilized to comply with this Act.

1 (4) Subject the internet protocol (IP) addresses,
2 including known virtual private network IP address-
3 es, of each user to the technology verification meas-
4 ure described in paragraph (1) unless the provider
5 determines based on available technology that such
6 user is not located within the United States.

7 (c) CHOICE OF VERIFICATION MEASURES.—A pro-
8 vider of a covered platform may choose the specific tech-
9 nology verification measures to utilize for purposes of com-
10 plying with subsection (a), if such measures satisfy sub-
11 section (b) and prohibit a minor from accessing the cov-
12 ered platform of the provider or any material on such plat-
13 form that is sexual material harmful to minors.

14 (d) USE OF THIRD PARTIES.—A provider of a cov-
15 ered platform may contract with a third party to employ
16 technology verification measures for purposes of com-
17 plying with subsection (a), but the use of a third party
18 does not relieve such provider from obligations under this
19 Act or from liability under this Act.

20 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
21 tion may be construed to require submission to the Com-
22 mission of any information that identifies, is linked to, or
23 is reasonably linkable to a user of a covered platform or
24 a device that identifies, is linked to, or is reasonably
25 linkable to a user of a covered platform.

1 (f) TECHNOLOGY VERIFICATION MEASURE DATA SE-
2 CURITY.—A provider of a covered platform shall—

3 (1) establish, implement, and maintain reason-
4 able administrative, technical, and physical data se-
5 curity practices to—

6 (A) protect the confidentiality, integrity,
7 and accessibility of technology verification
8 measure data collected with respect to the cov-
9 ered platform of such provider, including by a
10 third party employed with respect to such plat-
11 form; and

12 (B) protect such technology verification
13 measure data against unauthorized access; and

14 (2) retain technology verification measure data
15 for no longer than is reasonably necessary to utilize
16 a technology verification measure or what is mini-
17 mally necessary to demonstrate compliance with this
18 Act.

19 **SEC. 4. CONSULTATION REQUIREMENTS.**

20 In carrying out this Act, the Commission shall con-
21 sult with the following individuals, including with respect
22 to the applicable standards and metrics for making a de-
23 termination on whether a user of a covered platform is
24 or is not a minor:

1 (1) Individuals with experience in computer
2 science and software engineering.

3 (2) Individuals with experience in—

4 (A) advocating for online child safety; or

5 (B) providing services to minors who have
6 been victimized by online child exploitation.

7 (3) Individuals with experience in consumer
8 protection and online privacy.

9 (4) Individuals who supply technology
10 verification measure products or have expertise in
11 technology verification measure solutions.

12 (5) Individuals with experience in data security
13 and cryptography.

14 **SEC. 5. ENFORCEMENT.**

15 (a) ENFORCEMENT BY COMMISSION.—

16 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
17 TICES.—A violation of section 3 shall be treated as
18 a violation of a regulation under section 18(a)(1)(B)
19 of the Federal Trade Commission Act (15 U.S.C.
20 57a(a)(1)(B)) regarding unfair or deceptive acts or
21 practices.

22 (2) POWERS OF COMMISSION.—The Commis-
23 sion shall enforce section 3 in the same manner, by
24 the same means, and with the same jurisdiction,
25 powers, and duties as though all applicable terms

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

7 (b) 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 section 3, the State, as *parens patriae*, may bring
14 a civil action on behalf of the residents of the State
15 in an appropriate State court or an appropriate dis-
16 trict court of the United States to—

17 (A) enjoin such act or practice;

18 (B) enforce compliance with such section;

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

22 (D) obtain such other legal and equitable
23 relief as the court may consider to be appro-
24 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 Commis-
4 sion a written notice of such action and a copy of
5 the complaint for such action. If the attorney gen-
6 eral, official, or agency determines that it is not fea-
7 sible to provide the notice described in this para-
8 graph before the filing of the action, the attorney
9 general, official, or agency shall provide written no-
10 tice of the action and a copy of the complaint to the
11 Commission immediately upon the filing of the ac-
12 tion.

13 (3) AUTHORITY OF COMMISSION.—

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

18 (i) to intervene in the action;

19 (ii) upon so intervening, to be heard
20 on all matters arising therein; and

21 (iii) to file petitions for appeal.

22 (B) LIMITATION ON STATE ACTION WHILE
23 FEDERAL ACTION IS PENDING.—If the Commis-
24 sion or the Attorney General of the United
25 States has instituted a civil action for violation

1 of section 3 (referred to in this subparagraph
2 as the “Federal action”), no State attorney
3 general, official, or agency may bring an action
4 under this subsection during the pendency of
5 the Federal action against any defendant
6 named in the complaint in the Federal action
7 for any violation of such section alleged in such
8 complaint.

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

18 **SEC. 6. GAO REPORT.**

19 Not later than 3 years after the date of the enact-
20 ment of this Act, the Comptroller General of the United
21 States shall submit to Congress a report that includes—

22 (1) an analysis of the effectiveness of the tech-
23 nology verification measures required under section
24 3;

1 (2) an analysis of the rate of compliance with
2 such section with respect to covered platforms;

3 (3) an analysis of the data security measures
4 used by covered platforms with respect to age
5 verification processes;

6 (4) an analysis of the behavioral, economic, psy-
7 chological, and societal effects of requiring tech-
8 nology verification measures under section 3; and

9 (5) recommendations, if any, to the Commission
10 on improving the enforcement of this Act.

11 **SEC. 7. RELATIONSHIP TO STATE LAWS.**

12 No State or political subdivision of a State may pre-
13 scribe, maintain, or enforce any law, rule, regulation, re-
14 quirement, standard, or other provision having the force
15 and effect of law, if such law, rule, regulation, require-
16 ment, standard, or other provision relates to the provisions
17 of this Act.

18 **SEC. 8. SEVERABILITY CLAUSE.**

19 If any provision of this Act, or the application of such
20 a provision to any person or circumstance, is held invalid,
21 the remaining provisions of this Act, and the application
22 of such provisions to any other person or circumstance,
23 shall not be affected.

