

111TH CONGRESS
1ST SESSION

H. R. 4059

To enhance Internet safety and security and to prevent exploitation of children online through the use of technology.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2009

Mr. STUPAK introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance Internet safety and security and to prevent exploitation of children online through the use of technology.

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 “Online Age Verification
5 and Child Safety Act”.

6 **TITLE I—AGE VERIFICATION**

7 **SEC. 101. AGE VERIFICATION REQUIREMENT.**

8 (a) **PORNOGRAPHIC MATERIAL IN GENERAL.**—It is
9 unlawful for an operator of any pornographic website ac-

1 cessible by any computer located within the United States
2 to display any pornographic material, including free con-
3 tent that may be available prior to the purchase of a sub-
4 scription or product, without first verifying that any user
5 attempting to access their site is 18 years of age or older
6 in a manner consistent with the regulations prescribed
7 under subsection (c).

8 (b) FINANCIAL TRANSACTIONS REQUIRING AGE
9 VERIFICATION.—

10 (1) IN GENERAL.—It is unlawful for an oper-
11 ator of any website accessible by any computer lo-
12 cated within the United States to carry out any fi-
13 nancial transaction relating to any product or service
14 whose sale or access to persons under a legally speci-
15 fied age is prohibited by law, without first verifying
16 that each user attempting to carry out the trans-
17 action meets the legally required age limitation, con-
18 sistent with the regulations prescribed under sub-
19 section (c).

20 (2) SCOPE.—The product or services subject to
21 paragraph (1) include alcohol, cigarettes and to-
22 bacco, fireworks, gambling, handguns, pornographic
23 material, and any other product or service that the
24 Commission determines is age-restricted under Fed-
25 eral or State law.

1 (c) REGULATIONS.—Not later than 1 year after the
2 date of enactment of this Act, the Commission, in accord-
3 ance with section 553 of title 5, United States Code, shall
4 promulgate regulations that—

5 (1) require the operator of any website or on-
6 line service described in subsection (a) or (b) to—

7 (A) establish and maintain a system of in-
8 ternal policies, procedures and controls to en-
9 sure that no such material is displayed to any
10 user attempting to access their site without
11 first verifying that the user is 18 years or older;

12 (B) limit the use of any personal informa-
13 tion collected by the website to age verification,
14 except with the express consent of the user;

15 (C) establish and maintain reasonable pro-
16 cedures to protect the confidentiality, security,
17 and integrity of personal information collected
18 by the website; and

19 (D) undertake an independent audit func-
20 tion to test the system;

21 (2) allow the operator to terminate service to
22 any user who fails to provide information sufficient
23 to verify that the user meets the age requirement re-
24 lating to the products, services, or content provided
25 by the website; and

1 (3) establish a system under which the Commis-
2 sion develops and maintains a regularly updated list
3 of operators and online sites displaying pornographic
4 material which are not in compliance with this sec-
5 tion.

6 **SEC. 102. CRIMINAL VIOLATIONS.**

7 (a) OFFENSES.—Whoever knowingly and with intent
8 sells or provides access to any product or service to a per-
9 son under a legally specified age to whom such sale or
10 access is prohibited under applicable law, if the offense
11 affects interstate or foreign commerce, shall be fined
12 under title 18, United States Code, and imprisoned for
13 not more than 10 years, or both.

14 (b) ATTEMPTS.—Whoever attempts to commit an of-
15 fense under subsection (a) of this section shall be subject
16 to the same penalties as those prescribed for the offense
17 attempted.

18 (c) CONSPIRACIES.—Whoever is a party to a con-
19 spiracy of 2 or more persons to commit an offense under
20 subsection (a) of this section, if any of the parties engages
21 in any conduct in furtherance of such offense, shall be
22 fined an amount not greater than the amount provided
23 as the maximum fine for such offense under subsection
24 (a) of this section or imprisoned not longer than one-half

1 the period provided as the maximum imprisonment for
2 such offense under subsection (c) of this section, or both.

3 (d) FORFEITURE PROCEDURE.—The forfeiture of
4 property under this section, including any seizure and dis-
5 position of the property and any related administrative
6 and judicial proceeding, shall be governed by section 413
7 of the Controlled Substances Act, except for subsection (d)
8 of that section.

9 (e) RACKETEERING PREDICATE ACTIVITY.—An of-
10 fense under subsection (a) of this section shall constitute
11 racketeering activity within the meaning of section
12 1981(a) of title 18, United States Code.

13 **SEC. 103. INTERNET PAYMENT SERVICE PROVIDER RE-**
14 **QUIREMENT.**

15 (a) PORNOGRAPHIC MATERIAL.—Any Internet pay-
16 ment service provider, or business that performs financial
17 transactions for an operator relating to pornographic ma-
18 terial, including any bank, credit card company, payments
19 services provider or third-party merchant, shall only proc-
20 ess age-verified transactions for Internet sales involving
21 pornography.

22 (b) FINANCIAL TRANSACTIONS.—Any Internet pay-
23 ment service provider, or business that performs financial
24 transactions for an operator relating to any product or
25 service whose sale or access to persons below a legally

1 specified age is prohibited by law, including but not lim-
2 ited to any bank, credit card company, payments services
3 provider or third-party merchant, shall only process age-
4 verified transactions for Internet sales relating to such
5 product or service.

6 (c) SAFE HARBORS.—

7 (1) PORNOGRAPHIC MATERIAL.—With regard to
8 financial transactions involving any operator under
9 section 101, any Internet payment service provider
10 may satisfy the requirements of regulations issued
11 under subsection (a) by—

12 (A) receiving a certification from an oper-
13 ator that the operator is in compliance with the
14 regulations issued under section 101(c);

15 (B) determining that the operator or
16 website is not on the list of entities determined
17 by the Commission not to be in compliance with
18 the regulations issued under section 101(c); and

19 (C) such other means as the Commission
20 may determine would meet the intent of this
21 Act to protect children from gaining access to
22 Internet pornography.

23 (2) FINANCIAL TRANSACTIONS.—With regard
24 to financial transactions involving any operator
25 under section 101 of age-restricted products or serv-

1 ices other than pornography, any Internet payment
2 service provider may satisfy the requirements of reg-
3 ulations issued under subsection (b) by—

4 (A) receiving a certification from an oper-
5 ator that the operator is in compliance with the
6 regulations issued under section 101(c); or

7 (B) such other means as the regulator
8 specified in section 105 shall determine would
9 meet the intent of this Act to protect children
10 from obtaining products and services on the
11 Internet whose sale or access to persons below
12 a legally specified age is prohibited by law.

13 **SEC. 104. ENFORCEMENT OF AGE-VERIFICATION.**

14 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

15 A violation of section 101 or the regulations issued under
16 such section shall be treated as a violation of a rule issued
17 under section 18(a) of the Federal Trade Commission Act
18 (15 U.S.C. 57a) regarding unfair or deceptive acts or
19 practices.

20 (b) POWERS OF COMMISSION.—The Federal Trade

21 Commission shall enforce section 101 in the same manner,
22 by the same means, and with the same jurisdiction, pow-
23 ers, and duties as though all applicable terms and provi-
24 sions of the Federal Trade Commission Act (15 U.S.C.
25 41 et seq.) were incorporated into and made a part of this

1 title. Any person who violates such regulations shall be
2 subject to the penalties provided in that Act.

3 **SEC. 105. ENFORCEMENT OF PAYMENT PROVIDER RE-**
4 **QUIREMENTS.**

5 (a) IN GENERAL.—Section 103, and the regulations
6 required thereunder, shall be enforced exclusively under—

7 (1) section 8 of the Federal Deposit Insurance
8 Act (12 U.S.C. 1818), in the case of—

9 (A) a national bank, a Federal branch or
10 Federal agency of a foreign bank, or any sub-
11 subsidiary thereof (other than a broker, dealer,
12 person providing insurance, investment com-
13 pany, or investment adviser), by the Office of
14 the Comptroller of the Currency;

15 (B) a member bank of the Federal Reserve
16 System (other than a national bank), a branch
17 or agency of a foreign bank (other than a Fed-
18 eral branch, Federal agency, or insured State
19 branch of a foreign bank), a commercial lending
20 company owned or controlled by a foreign bank,
21 an organization operating under section 25 or
22 25A of the Federal Reserve Act (12 U.S.C.
23 601, 604), or a bank holding company and its
24 nonbank subsidiary or affiliate (other than a
25 broker, dealer, person providing insurance, in-

1 investment company, or investment adviser), by
2 the Board of Governors of the Federal Reserve
3 System;

4 (C) a bank, the deposits of which are in-
5 sured by the Federal Deposit Insurance Cor-
6 poration (other than a member of the Federal
7 Reserve System), an insured State branch of a
8 foreign bank, or any subsidiary thereof (other
9 than a broker, dealer, person providing insur-
10 ance, investment company, or investment ad-
11 viser), by the Board of Directors of the Federal
12 Deposit Insurance Corporation; and

13 (D) a savings association, the deposits of
14 which are insured by the Federal Deposit In-
15 surance Corporation, or any subsidiary thereof
16 (other than a broker, dealer, person providing
17 insurance, investment company, or investment
18 adviser), by the Director of the Office of Thrift
19 Supervision;

20 (2) the Federal Credit Union Act (12 U.S.C.
21 1751 et seq.), by the National Credit Union Admin-
22 istration Board with respect to any federally insured
23 credit union;

1 (3) the Securities Exchange Act of 1934 (15
2 U.S.C. 78a et seq.), by the Securities and Exchange
3 Commission with respect to any broker or dealer;

4 (4) the Investment Company Act of 1940 (15
5 U.S.C. 80a–1 et seq.), by the Securities and Ex-
6 change Commission with respect to any investment
7 company;

8 (5) the Investment Advisers Act of 1940 (15
9 U.S.C. 80b–1 et seq.), by the Securities and Ex-
10 change Commission with respect to any investment
11 adviser registered with the Securities and Exchange
12 Commission under that Act;

13 (6) the Commodity Exchange Act (7 U.S.C. 1
14 et seq.), by the Commodity Futures Trading Com-
15 mission with respect to any futures commission mer-
16 chant, commodity trading advisor, commodity pool
17 operator, or introducing broker;

18 (7) the provisions of title XIII of the Housing
19 and Community Development Act of 1992 (12
20 U.S.C. 4501 et seq.), by the Director of Federal
21 Housing Enterprise Oversight (and any successor to
22 such functional regulatory agency) with respect to
23 the Federal National Mortgage Association, the Fed-
24 eral Home Loan Mortgage Corporation, and any
25 other entity or enterprise (as defined in that title)

1 subject to the jurisdiction of such functional regu-
2 latory agency under that title, including any affiliate
3 of any such enterprise;

4 (8) State insurance law, in the case of any per-
5 son engaged in providing insurance, by the applica-
6 ble State insurance authority of the State in which
7 the person is domiciled; and

8 (9) the Federal Trade Commission Act (15
9 U.S.C. 41 et seq.), by the Commission for any other
10 covered entity that is not subject to the jurisdiction
11 of any agency or authority described under para-
12 graphs (1) through (8).

13 (b) NO PRIVATE RIGHT OF ACTION.—

14 (1) IN GENERAL.—This Act, and the regula-
15 tions prescribed under this Act, may not be con-
16 strued to provide a private right of action, including
17 a class action with respect to any act or practice
18 regulated under this Act.

19 (2) CIVIL AND CRIMINAL ACTIONS.—No civil or
20 criminal action relating to any act or practice gov-
21 erned under this Act, or the regulations prescribed
22 under this Act, shall be commenced or maintained in
23 any State court or under State law, including a
24 pendent State claim to an action under Federal law.

1 **SEC. 106. DEFINITIONS.**

2 In this title the following definitions apply:

3 (1) COMMISSION.—The term “Commission”
4 means the Federal Trade Commission.

5 (2) PORNOGRAPHIC MATERIAL.—The term
6 “pornographic material” means any film, video,
7 digitally- or computer-manipulated image, digital
8 image, picture, or other matter that contains a de-
9 pication of an actual human being engaged in actual
10 sexually explicit conduct that is produced in whole or
11 in part with materials that have been mailed or
12 shipped in interstate or foreign commerce, or is
13 shipped or transported or is intended for shipment
14 or transportation in interstate or foreign commerce
15 and that contains one or more visual depictions of
16 an actual human being engaged in actual sexually
17 explicit conduct made after July 3, 1995.

18 (3) PORNOGRAPHIC WEB SITE.—The term
19 “pornographic Web site” means a person required to
20 maintain documents verifying the age of persons en-
21 gaged in sexually explicit conduct pursuant to sec-
22 tion 2257(a) of title 18, United States Code.

23 (4) AGE RESTRICTED.—The term “age re-
24 stricted” means a product or service whose access,
25 sale, or use is limited under applicable Federal or
26 State law to persons over a specified age.

1 (5) OPERATOR.—The term “operator” means a
2 person who provides products or services online
3 whose sale is limited by applicable law to persons
4 over the age of 18 or with regard to alcohol, over the
5 age of 21.

6 (6) PAYMENT SERVICES PROVIDER.—The term
7 “payment services provider” means any person who
8 engages in any of the following activities:

9 (A) Enabling cash to be placed on a pay-
10 ment account as well as all the operations re-
11 quired for operating a payment account.

12 (B) Enabling cash withdrawals from a
13 payment account as well as all the operations
14 required for operating a payment account.

15 (C) Execution of payment transactions, in-
16 cluding transfers of funds on a payment ac-
17 count with the user’s payment service provider
18 or with another payment service provider.

19 (D) Execution of direct debits, including
20 one-time direct debits.

21 (E) Execution of payment transactions
22 through a payment card or a similar device.

23 (F) Execution of credit transfers, including
24 standing orders.

1 (G) Execution of payment transactions
2 where the funds are covered by a credit line for
3 a payment service user.

4 (H) Execution of direct debits, including
5 one-off direct debits.

6 (I) Execution of payment transactions
7 through a payment card or a similar device.

8 (J) Execution of credit transfers, including
9 standing orders.

10 (K) Issuing and/or acquiring of payment
11 instruments.

12 (L) Money remittance.

13 (M) Execution of payment transactions
14 where the consent of the payer to execute a
15 payment transaction is given by means of any
16 telecommunication, digital or IT device and the
17 payment is made to the telecommunication, IT
18 system or network operator, acting only as an
19 intermediary between the payment service user
20 and the supplier of the goods and services.

1 **TITLE II—ENHANCING ANTI-**
2 **MONEY LAUNDERING LAWS**
3 **TO COVER ONLINE TRANS-**
4 **ACTIONS**

5 **SEC. 201. FINANCIAL INSTITUTIONS SPECIFIED IN SUB-**
6 **CHAPTER II OF CHAPTER 53 OF TITLE 31,**
7 **UNITED STATES CODE.**

8 (a) **PAYMENT SERVICES PROVIDERS.**—Section
9 5312(c) of title 31, United States Code, is amended by
10 adding at the end the following:

11 “(2) Any payments services provider that is not
12 otherwise covered as a financial institution under
13 this subsection, including any person who engages in
14 any of the following activities:

15 “(A) Enabling cash to be placed on a pay-
16 ment account as well as all the operations re-
17 quired for operating a payment account.

18 “(B) Enabling cash withdrawals from a
19 payment account as well as all the operations
20 required for operating a payment account.

21 “(C) Execution of payment transactions,
22 including transfers of funds on a payment ac-
23 count with the user’s payment service provider
24 or with another payment service provider.

1 “(D) Execution of direct debits, including
2 one-time direct debits.

3 “(E) Execution of payment transactions
4 through a payment card or a similar device.

5 “(F) Execution of credit transfers, includ-
6 ing standing orders.

7 “(G) Execution of payment transactions
8 where the funds are covered by a credit line for
9 a payment service user.

10 “(H) Execution of direct debits, including
11 one-off direct debits.

12 “(I) Execution of payment transactions
13 through a payment card or a similar device.

14 “(J) Execution of credit transfers, includ-
15 ing standing orders.

16 “(K) Issuing or acquiring of payment in-
17 struments.

18 “(L) Money remittance.

19 “(M) Execution of payment transactions
20 where the consent of the payer to execute a
21 payment transaction is given by means of any
22 telecommunication, digital or IT device and the
23 payment is made to the telecommunication, IT
24 system or network operator, acting only as an

1 intermediary between the payment service user
2 and the supplier of the goods and services.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect at the end of the 180-day
5 period beginning on the date of enactment of this Act.

6 (c) **DATE OF APPLICATION OF REGULATIONS; FAC-**
7 **TORS TO BE TAKEN INTO ACCOUNT.**—Before the end of
8 the 180-day period beginning on the date of enactment
9 of this Act, the Secretary of the Treasury shall prescribe
10 regulations that consider the extent to which the require-
11 ments imposed under this section are commensurate with
12 the size, location, and activities of the financial institu-
13 tions to which such regulations apply.

14 **SEC. 202. CURRENCIES NOT BACKED BY UNITED NATIONS**
15 **MEMBER STATES.**

16 (a) **IN GENERAL.**—No financial institution may proc-
17 ess a financial transaction denominated in or otherwise in-
18 volving an electronic currency not backed by the full faith
19 and credit of a member state of the United Nations.

20 (b) **EXCLUSION.**—For the purposes of this sub-
21 section, an electronic currency does not include—

22 (1) any activity governed by the securities laws
23 (as that term is defined in section 3(a)(47) of the
24 Securities Exchange Act of 1934 for the purchase or

1 sale of securities (as that term is defined in section
2 3(a)(10) of that Act);

3 (2) any transaction conducted on or subject to
4 the rules of a registered entity or exempt board of
5 trade under the Commodity Exchange Act;

6 (3) any over-the-counter derivative instrument;

7 (4) any contract of indemnity or guarantee;

8 (5) any contract for insurance;

9 (6) any deposit or other transaction with an in-
10 sured depository institution; and

11 (7) any other form of financial instrument or
12 payment, however denominated, that the Secretary
13 determines should not be subject to the prohibition
14 of this subsection.

15 (c) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall take effect at the end of the 180-day
17 period beginning on the date of enactment of this Act.

18 (d) DATE OF APPLICATION OF REGULATIONS.—Be-
19 fore the end of the 180-day period beginning on the date
20 of enactment of this Act, the Secretary shall prescribe reg-
21 ulations to implement the prohibitions set forth in sub-
22 section (a).

1 **SEC. 203. DEFINITIONS.**

2 In this title, the term “Secretary” means Secretary
3 of the Treasury.

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