

Paso, Texas (Mr. SYLVESTRE REYES), with his extensive background in border issues.

At the same time, in the other body, Senator CHAFEE and Senator INHOFE have been very, very supportive in getting this bill through the Senate.

I would also at this time like to strongly praise my colleague and ranking member, the gentleman from Ohio (Mr. SHERROD BROWN) for his aid in making this bill possible, and my colleague, the gentleman from California (Mr. HENRY WAXMAN).

Mr. Speaker, this bill is a model, not only for those of us in the House to be able to work in a bipartisan way to address environmental problems, but also a model of the fact that we are no longer going to ignore the environmental challenges along our frontiers. In fact, it is reflective of the strategy that we are going to use the economic opportunities of international trade as a vehicle to focus on environmental problems that have been ignored for all too long.

Mr. Speaker, I would like to state quite clearly my appreciation to the entire governmental structure in Washington, for once addressing these problems, faced by those of us who live along the border. I look forward to working together with my colleagues on both sides of the aisle, and working with the Republic of Mexico, and Canada, in making sure that current and future problems, faced such as smog problems along the border are addressed, along with many others. I think this can be a vehicle that we can use as a blueprint here in the House of Representatives and in the Senate and hopefully in our continuing relationships with our neighbors to the north and south.

I ask Members' support for H.R. 8. It is a common-sense approach to addressing an important public health issue, and at the same time assessing what more can be done to make sure that we properly address those remaining issues that have not been addressed comprehensively. Mr. Speaker, I ask for the passage of H.R. 8.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NEY). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and concur in the Senate amendments to H.R. 8.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

#### CHILD ONLINE PROTECTION ACT

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3783) to amend section 223 of the Communications Act of 1934 to require persons who are engaged in the busi-

ness of selling or transferring, by means of the World Wide Web, material that is harmful to minors to restrict access to such material by minors, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3783

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Online Protection Act".

#### TITLE I—PROTECTION FROM MATERIAL THAT IS HARMFUL TO MINORS

##### SEC. 101. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) while custody, care, and nurture of the child resides first with the parent, the widespread availability of the Internet presents opportunities for minors to access materials through the World Wide Web in a manner that can frustrate parental supervision or control;

(2) the protection of the physical and psychological well-being of minors by shielding them from materials that are harmful to them is a compelling governmental interest;

(3) to date, while the industry has developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(4) a prohibition on the distribution of material harmful to minors, combined with legitimate defenses, is currently the most effective and least restrictive means by which to satisfy the compelling government interest; and

(5) notwithstanding the existence of protections that limit the distribution over the World Wide Web of material that is harmful to minors, parents, educators, and industry must continue efforts to find ways to protect children from being exposed to harmful material found on the Internet.

##### SEC. 102. REQUIREMENT TO RESTRICT ACCESS BY MINORS TO MATERIALS COMMERCIALY DISTRIBUTED BY MEANS OF THE WORLD WIDE WEB THAT ARE HARMFUL TO MINORS.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

##### "SEC. 231. RESTRICTION OF ACCESS BY MINORS TO MATERIALS COMMERCIALY DISTRIBUTED BY MEANS OF WORLD WIDE WEB THAT ARE HARMFUL TO MINORS.

"(a) REQUIREMENT TO RESTRICT ACCESS.—

"(1) PROHIBITED CONDUCT.—Whoever knowingly and with knowledge of the character of the material, in interstate or foreign commerce by means of the World Wide Web, makes any communication for commercial purposes that is available to any minor and that includes any material that is harmful to minors shall be fined not more than \$50,000, imprisoned not more than 6 months, or both.

"(2) INTENTIONAL VIOLATIONS.—In addition to the penalties under paragraph (1), whoever intentionally violates such paragraph shall be subject to a fine of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(3) CIVIL PENALTY.—In addition to the penalties under paragraphs (1) and (2), whoever violates paragraph (1) shall be subject to a civil penalty of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(b) INAPPLICABILITY OF CARRIERS AND OTHER SERVICE PROVIDERS.—For purposes of subsection (a), a person shall not be considered to make any communication for commercial purposes to the extent that such person is—

"(1) a telecommunications carrier engaged in the provision of a telecommunications service;

"(2) a person engaged in the business of providing an Internet access service;

"(3) a person engaged in the business of providing an Internet information location tool; or

"(4) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the content of the communication, except that such person's deletion of a particular communication or material made by another person in a manner consistent with subsection (c) or section 230 shall not constitute such selection or alteration of the content of the communication.

"(c) AFFIRMATIVE DEFENSE.—

"(1) DEFENSE.—It is an affirmative defense to prosecution under this section that the defendant, in good faith, has restricted access by minors to material that is harmful to minors—

"(A) by requiring use of a credit card, debit account, adult access code, or adult personal identification number;

"(B) by accepting a digital certificate that verifies age; or

"(C) by any other reasonable measures that are feasible under available technology.

"(2) PROTECTION FOR USE OF DEFENSES.—No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that the person has taken in good faith to implement a defense authorized under this subsection or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

"(d) PRIVACY PROTECTION REQUIREMENTS.—

"(1) DISCLOSURE OF INFORMATION LIMITED.—A person making a communication described in subsection (a)—

"(A) shall not disclose any information collected for the purposes of restricting access to such communications to individuals 17 years of age or older without the prior written or electronic consent of—

"(i) the individual concerned, if the individual is an adult; or

"(ii) the individual's parent or guardian, if the individual is under 17 years of age; and

"(B) shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the person making such communication and the recipient of such communication.

"(2) EXCEPTIONS.—A person making a communication described in subsection (a) may disclose such information if the disclosure is—

"(A) necessary to make the communication or conduct a legitimate business activity related to making the communication; or

"(B) made pursuant to a court order authorizing such disclosure.

"(e) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(1) BY MEANS OF THE WORLD WIDE WEB.—The term 'by means of the World Wide Web' means by placement of material in a computer server-based file archive so that it is

publicly accessible, over the Internet, using hypertext transfer protocol or any successor protocol.

“(2) COMMERCIAL PURPOSES; ENGAGED IN THE BUSINESS.—

“(A) COMMERCIAL PURPOSES.—A person shall be considered to make a communication for commercial purposes only if such person is engaged in the business of making such communications.

“(B) ENGAGED IN THE BUSINESS.—The term ‘engaged in the business’ means that the person who makes a communication, or offers to make a communication, by means of the World Wide Web, that includes any material that is harmful to minors, devotes time, attention, or labor to such activities, as a regular course of such person’s trade or business, with the objective of earning a profit as a result of such activities (although it is not necessary that the person make a profit or that the making or offering to make such communications be the person’s sole or principal business or source of income). A person may be considered to be engaged in the business of making, by means of the World Wide Web, communications for commercial purposes that include material that is harmful to minors, only if the person knowingly causes the material that is harmful to minors to be posted on the World Wide Web or knowingly solicits such material to be posted on the World Wide Web.

“(3) INTERNET.—The term ‘Internet’ means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol or any successor protocol to transmit information.

“(4) INTERNET ACCESS SERVICE.—The term ‘Internet access service’ means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

“(5) INTERNET INFORMATION LOCATION TOOL.—The term ‘Internet information location tool’ means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

“(6) MATERIAL THAT IS HARMFUL TO MINORS.—The term ‘material that is harmful to minors’ means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that is obscene or that—

“(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

“(B) depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

“(C) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

“(7) MINOR.—The term ‘minor’ means any person under 17 years of age.”

#### SEC. 103. NOTICE REQUIREMENT.

(a) NOTICE.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) in subsection (d)(1), by inserting “or 231” after “section 223”;

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection:

“(d) OBLIGATIONS OF INTERACTIVE COMPUTER SERVICE.—A provider of interactive computer service shall, at the time of entering an agreement with a customer for the provision of interactive computer service and in a manner deemed appropriate by the provider, notify such customer that parental control protections (such as computer hardware, software, or filtering services) are commercially available that may assist the customer in limiting access to material that is harmful to minors. Such notice shall identify, or provide the customer with access to information identifying, current providers of such protections.”

(b) CONFORMING AMENDMENT.—Section 223(h)(2) of the Communications Act of 1934 (47 U.S.C. 223(h)(2)) is amended by striking “230(e)(2)” and inserting “230(f)(2)”.

#### SEC. 104. STUDY BY COMMISSION ON ONLINE CHILD PROTECTION.

(a) ESTABLISHMENT.—There is hereby established a temporary Commission to be known as the Commission on Online Child Protection (in this section referred to as the “Commission”) for the purpose of conducting a study under this section regarding methods to help reduce access by minors to material that is harmful to minors on the Internet.

(b) MEMBERSHIP.—The Commission shall be composed of 19 members, as follows:

(1) INDUSTRY MEMBERS.—The Commission shall include—

(A) 2 members who are engaged in the business of providing Internet filtering or blocking services or software;

(B) 2 members who are engaged in the business of providing Internet access services;

(C) 2 members who are engaged in the business of providing labeling or ratings services;

(D) 2 members who are engaged in the business of providing Internet portal or search services;

(E) 2 members who are engaged in the business of providing domain name registration services;

(F) 2 members who are academic experts in the field of technology; and

(G) 4 members who are engaged in the business of making content available over the Internet.

Of the members of the Commission by reason of each subparagraph of this paragraph, an equal number shall be appointed by the Speaker of the House of Representatives and by the Majority Leader of the Senate.

(2) EX OFFICIO MEMBERS.—The Commission shall include the following officials:

(A) The Assistant Secretary (or the Assistant Secretary’s designee).

(B) The Attorney General (or the Attorney General’s designee).

(C) The Chairman of the Federal Trade Commission (or the Chairman’s designee).

(c) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a study to identify technological or other methods that—

(A) will help reduce access by minors to material that is harmful to minors on the Internet; and

(B) may meet the requirements for use as affirmative defenses for purposes of section 231(c) of the Communications Act of 1934 (as added by this Act).

Any methods so identified shall be used as the basis for making legislative recommendations to the Congress under subsection (d)(3).

(2) SPECIFIC METHODS.—In carrying out the study, the Commission shall identify and analyze various technological tools and methods for protecting minors from material

that is harmful to minors, which shall include (without limitation)—

(A) a common resource for parents to use to help protect minors (such as a “one-click-away” resource);

(B) filtering or blocking software or services;

(C) labeling or rating systems;

(D) age verification systems;

(E) the establishment of a domain name for posting of any material that is harmful to minors; and

(F) any other existing or proposed technologies or methods for reducing access by minors to such material.

(3) ANALYSIS.—In analyzing technologies and other methods identified pursuant to paragraph (2), the Commission shall examine—

(A) the cost of such technologies and methods;

(B) the effects of such technologies and methods on law enforcement entities;

(C) the effects of such technologies and methods on privacy;

(D) the extent to which material that is harmful to minors is globally distributed and the effect of such technologies and methods on such distribution;

(E) the accessibility of such technologies and methods to parents; and

(F) such other factors and issues as the Commission considers relevant and appropriate.

(d) REPORT.—Not later than 1 year after the enactment of this Act, the Commission shall submit a report to the Congress containing the results of the study under this section, which shall include—

(1) a description of the technologies and methods identified by the study and the results of the analysis of each such technology and method;

(2) the conclusions and recommendations of the Commission regarding each such technology or method;

(3) recommendations for legislative or administrative actions to implement the conclusions of the committee; and

(4) a description of the technologies or methods identified by the study that may meet the requirements for use as affirmative defenses for purposes of section 231(c) of the Communications Act of 1934 (as added by this Act).

(e) STAFF AND RESOURCES.—The Assistant Secretary for Communication and Information of the Department of Commerce shall provide to the Commission such staff and resources as the Assistant Secretary determines necessary for the Commission to perform its duty efficiently and in accordance with this section.

(f) TERMINATION.—The Commission shall terminate 30 days after the submission of the report under subsection (d).

(g) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

#### SEC. 105. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 30 days after the date of enactment of this Act.

### TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

#### SEC. 201. DEFINITIONS.

In this title:

(1) CHILD.—The term “child” means an individual under the age of 13.

(2) OPERATOR.—The term “operator” means any person operating a website on the World Wide Web or any online service for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(A) among the several States or with 1 or more foreign nations;

(B) in any territory of the United States or in the District of Columbia, or between any such territory and—

- (i) another such territory; or
- (ii) any State or foreign nation; or

(C) between the District of Columbia and any State, territory, or foreign nation.

For purposes of this title, the term "operator" does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DISCLOSURE.—The term "disclosure" means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

- (i) a home page of a website;
- (ii) a pen pal service;
- (iii) an electronic mail service;
- (iv) a message board; or
- (v) a chat room.

(5) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term "parent" includes a legal guardian.

(8) PERSONAL INFORMATION.—The term "personal information" means individually identifiable information about an individual collected online, including—

- (A) a first and last name;
- (B) a home or other physical address including street name and name of a city or town;
- (C) an e-mail address;
- (D) a telephone number;
- (E) a Social Security number;
- (F) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term "verifiable parental consent" means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information

before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term "website or online service directed to children" means—

- (i) a commercial website or online service that is targeted to children; or
- (ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term "online contact information" means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

#### **SEC. 202. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.**

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

- (i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and
- (ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent whose child has provided personal information to that website or online service—

- (i) a description of the specific types of personal information collected from the child by that operator;
- (ii) notwithstanding any other provision of law, the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information on that child; and

(iii) a means that is reasonable under the circumstances for the parent to obtain any

personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity;

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children; and

(E) permit the operator of such a website or online service to collect, use, and disseminate such information as is necessary—

- (i) to protect the security or integrity of its website;
- (ii) to take precautions against liability;
- (iii) to respond to judicial process; and
- (iv) to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(2) WHEN CONSENT NOT REQUIRED.—Verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

- (A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;
- (B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

- (i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or
- (ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection; or

(D) the name of the child and online contact information (to the extent necessary to protect the safety of a child participant in the site)—

- (i) used only for the purpose of protecting such safety;
- (ii) not used to recontact the child or for any other purpose; and
- (iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form.

(c) ENFORCEMENT.—Subject to sections 203 and 205, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability

for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

#### SEC. 203. SAFE HARBORS.

(a) **GUIDELINES.**—An operator may satisfy the requirements of regulations issued under section 202(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

##### (b) INCENTIVES.

(1) **SELF-REGULATORY INCENTIVES.**—In prescribing regulations under section 202, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) **DEEMED COMPLIANCE.**—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 202 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 202.

(3) **EXPEDITED RESPONSE TO REQUESTS.**—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) **APPEALS.**—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

#### SEC. 204. ACTIONS BY STATES.

##### (a) IN GENERAL.

(1) **CIVIL ACTIONS.**—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 202(b), the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

##### (2) NOTICE.

(A) **IN GENERAL.**—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

- (i) written notice of that action; and
- (ii) a copy of the complaint for that action.

##### (B) EXEMPTION.

(i) **IN GENERAL.**—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) **NOTIFICATION.**—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

##### (b) INTERVENTION.

(1) **IN GENERAL.**—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) **EFFECT OF INTERVENTION.**—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) **AMICUS CURIAE.**—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file *amicus curiae* in that proceeding.

(c) **CONSTRUCTION.**—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) **ACTIONS BY THE COMMISSION.**—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 202, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

##### (e) VENUE; SERVICE OF PROCESS.

(1) **VENUE.**—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) **SERVICE OF PROCESS.**—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

#### SEC. 205. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) **IN GENERAL.**—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) **PROVISIONS.**—Compliance with the requirements imposed under this title shall be enforced under—

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

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union

Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) **EXERCISE OF CERTAIN POWERS.**—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) **ACTIONS BY THE COMMISSION.**—The Commission shall prevent any person from violating a rule of the Commission under section 202 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) **EFFECT ON OTHER LAWS.**—Nothing contained in this title shall be construed to limit the authority of the Commission under any other provisions of law.

#### SEC. 206. REVIEW.

Not later than 5 years after the effective date of the regulations initially issued under section 202, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

#### SEC. 207. EFFECTIVE DATE.

Sections 202(a), 204, and 205 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 203 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

The **SPEAKER pro tempore**. Pursuant to the rule, the gentleman from Louisiana (Mr. **TAUZIN**) and the gentleman from Massachusetts (Mr. **MARKEY**) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 3783, the Child Online Protection Act. Last month the Committee on Commerce overwhelmingly approved this bill. The bill as adopted would simply make it illegal to sell pornography to minors on the World Wide Web unless and until an adult verification system is in place.

Let me make it clear, the bill does not try to control the sale of that material to adults. Neither does it say one cannot sell it to a minor for whom an adult says it is okay. It simply says that insofar as the sale of material to a minor, that the producer of that product cannot do so without the consent of the parents in an adult verification system that actually works.

It directs the FTC to promulgate regulations within a year of the date of the act prohibiting commercial websites and online operators from collecting personally identifying information from children 12 and under, unless certain requirements are met. This is an FTC agreement that has been reached and supported and already adopted on the other side that we have added by amendment to this bill.

Further, the public posting of children's identifying information in chat rooms and other online forums may pose safety concerns, and the bill simply protects against those things happening.

The bill requires four simple things. It requires ample notice to make sure that operators provide clear, prominent, understandable notice on their sites of what information they are collecting from children, how they will use it, and disclosure practice for that information.

Second, it states that operators must obtain parental consent; and third, that operators must prohibit inducements to provide personal information from the children by games and contests; and that operators must disclose the specific types of information collected to a parent, and offer the parent the opportunity to opt out of future use of that information.

For those who are still denying that the legislation is not needed, I ask them to go back to their offices and surf the net for a few minutes. If Members take a few minutes, Members will see that H.R. 3783 really attempts to solve a real, not a perceived, problem.

If Members go to an Internet search engine such as Yahoo, type in "porn"

or "sex", under porn I am told we will receive more than 105,000 matches, and under sex, receive 670,000 matches. Within seconds Members can retrieve information from any one of these hits, and they will display, in many cases, pornographic material.

Some sites will have warnings, 18 or older. Other sites ask for credit cards or information prior to entering, but virtually all the sites contain teasers that display sexual behavior, in an attempt to lure us into that site, us or our children. Imagine, now, a Member's 8-year-old son or daughter is accessing that same information.

The bill that we are considering today makes an honest attempt, without interference with the first amendment, to provide that our sons or daughters will not easily access this information without our consent. It is effective because it focuses on the commercial seller of pornography, and it uses a constitutionally already verified protection phrase, "harm to children," rather than the obscenity phrase that was attempted in the 1996 act and was rejected by the Supreme Court.

In short, H.R. 3783 attempts to address all the issues raised by the Supreme Court. It has a narrow prohibition, tighter definition, and a realization that the applicability of the law may change as technology is involved.

I want to particularly commend the gentleman from Ohio (Mr. OXLEY), the vice chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection, who is the principal author and who has worked so diligently with all members of the committee to make sure it came out with unanimous consent, and with conditions and language that we think is supportable in any court challenge.

I want to thank the gentleman from Virginia (Chairman BLILEY) for his leadership on this issue. He knows, as we all know, that this is a real problem, and this bill attempts to solve it in a real simple but meaningful way.

Mr. Speaker, I encourage Members to support H.R. 3783, and I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring to the floor the Child Online Protection Act, the bill that has been introduced by my good friend, the gentleman from Ohio (Mr. OXLEY), the gentleman from Pennsylvania (Mr. GREENWOOD), the gentleman from New York (Mr. MANTON), under the leadership of the gentleman from Louisiana (Mr. TAUZIN) and the chairman of the full committee, the gentleman from Virginia (Mr. BLILEY).

The legislation that we are bringing to the floor also includes the child privacy protection provisions similar to those of my bill, H.R. 4667, the Electronic Privacy Bill of Rights Act of 1998.

□ 1615

As many know, Senator BRYAN has similar child privacy legislation mov-

ing through the Senate, and hopefully we can enact children's privacy legislation before Congress adjourns this year.

I want to thank the gentleman from Virginia (Chairman BLILEY) and the gentleman from Louisiana (Chairman TAUZIN) and the gentleman from Ohio (Mr. OXLEY) and others for agreeing to add this provision here at the end of this session.

The first part of the legislation we consider this afternoon is designed to protect children from Internet fare that is inappropriate for them. Mr. Speaker, there is no question that there is content out on the Internet that is harmful to children and that they ought not to have access to such on-line fare from their computers.

In the previous session of Congress, the Communications Decency Act provision of the Telecommunications Act established a national indecency standard that the Court struck down because it was overly vague and broad, and I agreed with that decision. I opposed the Communications Decency Act out here on the floor.

The standard in the bill before us today is "harmful to minors," much narrower than the Communications Decency Act. Yet like the CDA, the bill would propose a national standard rather than a community-based standard of what harmful to minors means.

The legislation before us raises a number of difficult policy questions such as whether a policy of community-by-community-based standards of harmful to minors is at all possible in a global medium, whether the Internet requires national treatment for what is harmful to minors across the country.

The legislation also tacitly determines that filtering or blocking software cannot do the job of protecting minors, and, therefore, the government needs to step in and regulate access to certain Internet content.

I have long believed that technology can offer a solution to some of the problems that technology itself creates. Software filtering technology and other blocking technology can help to provide parents some tools for shielding children from inappropriate on-line fare.

In addition, I believe that other solutions may also help to mitigate against minors gaining access to Websites that parents want to shield from young children. I commend the gentleman from Ohio (Mr. OXLEY) for going to great lengths to listen to the concerns that many of us have and thank him for the adjustments that he has made in the legislation to meet some of those concerns.

While many of us still have concerns over the scope and the timing of some of these provisions, I hope that as we proceed and further discuss these provisions with our friends in the Senate, we can address how we define the scope of those entities that are providing inappropriate content and properly distinguish them from those entities that

are solely conduits for accessing that information; further talk about alternatives such as filtering; and perhaps address the timing of when certain provisions become effective; and adjust the commission in the bill to make its membership more bipartisan and reflective of the bipartisan manner in which this body deals with telecommunications issues generally.

Mr. Speaker, the second part of the bill, as the chairman of the subcommittee has pointed out, addresses the issue of child privacy on the Internet. The issue of privacy in the Information Age, and in particular children's privacy protection, is quite timely as the Nation becomes ever more linked by communications networks such as the Internet.

It is important as we tackle these issues now, before we travel down the information superhighway too far and realize perhaps that we made a wrong turn, that we had a chance to build in protection for kids before this technology took too much control over the lives of kids across our country.

In general, I believe that Congress ought to embrace a three-part comprehensive policy of privacy for children in our country:

Number one, that every parent should have knowledge about information which is being gathered about children in our country. As we know, many of these Websites attach cookies, attach this technology which allows them to gather the information about children without the knowledge of those children or parents. I believe that every family should know when information is being gathered about their children.

Secondly, notice that those companies, that those individuals plan on reusing that information for purposes other than that which was originally intended by the family, by the children.

And thirdly, that the family, that the consumer, that the children, have a right to say no, that they do not want this information to be reused other than that purpose for which the family had, the children using the Internet at that time.

These provisions in this bill are very consistent with those larger principles. The Senate has included language that is nearly identical; not quite, but very close in their bill. It gives us a chance to deal with this children's issue, this privacy issue, and I would hope that the full House today would adopt the bill in its entirety.

I thank the gentleman from Louisiana (Mr. TAUZIN), chairman of the subcommittee, again for his graciousness in helping us to add that provision.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, just to make everyone clear on the fact that the gentleman from Massachusetts (Mr. MARKEY) is the principal author of

these on-line privacy provisions, and they come, as he has pointed out, with full recommendation of the FTC and many consumer and family and children's support groups around America. I have a long list.

I also wanted to add that the provisions do include a safe harbor provision which says to the industry that if they can come up with a better provision, they can submit it to the FTC, and that would be the one that would be used. That is a very good type of provision that we like to include in this type of Internet legislation.

Mr. MARKEY. Mr. Speaker, reclaiming my time, I just think it is good electronic ethics for Website operators to know that they have a responsibility to children in our country. They should obtain parental consent. And I thank all who have helped to work on that issue, the gentleman from Louisiana (Mr. TAUZIN) the gentleman from Virginia (Mr. BLILEY) the gentleman from Ohio (Mr. OXLEY). On our side, the gentleman from Michigan (Mr. DINGELL) and his staff have worked with us very closely to craft this in a way which we believe does really meet this very great concern that is rising across the country.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. OXLEY) the principal author of the main part of this legislation which protects against pornography and children on the Net.

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, I rise today in support of the Child On-line Protection Act and as an advocate for a child's right to explore the World Wide Web without exposure to graphic pornography.

Currently more than 60,000 Websites featuring sexually explicit and obscene material are available to unsuspecting children. While the Internet can be a positive tool for the education and entertainment of our children, it can also be a window to the dark world of pornography. Minors can readily access obscene material intentionally or unintentionally and be lured into dangerous situations. Children cannot safely learn in a virtual red light district.

Common sense and 40 years of research in the field of child development clearly demonstrate that exposure to sexually explicit material is detrimental to the healthy psychological development of children.

Current law does not prevent adult Websites from providing sexually explicit images to children. Commercial distributors of pornography offer free teaser pages to lure potential customers into viewing more. A child may innocently search for key words like "dollhouse," "toys" or "pet," and be led into numerous sexually explicit sites.

That is why COPA enjoys broad bipartisan support today, and I specifi-

cally would like to express my appreciation to my original cosponsor, the gentleman from Pennsylvania (Mr. GREENWOOD), as well as the gentleman from Virginia (Chairman BLILEY), the gentleman from Louisiana (Chairman TAUZIN) for bringing this bill to the floor today, the ranking member of my subcommittee, the gentleman from New York (Mr. MANTON), the gentleman from Massachusetts (Mr. MARKEY), who has added the protections also in the privacy side that we applaud, and the gentleman from California (Mr. COX). Their input allowed us to clarify the intent of H.R. 3783 and eliminate any vagueness.

The gentleman from Washington (Mr. WHITE) particularly deserves particular recognition for helping to refine the bill to protect Internet service providers for liability for content which they do not produce.

I also want to express my support for Chairman Bliley's addition of child privacy protection language to the bill and express my sincere thanks to the gentleman from Massachusetts (Mr. MARKEY) for his good work in this area.

Mr. Chairman, COPA employs the constitutionally tested "harmful to minors" standard recognized and upheld in Federal courts for more than 30 years. It only applied to material which is not protected speech for minors under the First Amendment.

COPA requires commercial on-line pornographers to take steps to restrict children's access to adult material on the Web by requiring adult verification, such as an adult access code, PIN number, credit card numbers, or new technologies such as digital signatures when they become available.

COPA does not, and I want make this very clear, does not restrict an adult's ability to access pornographic Websites and does not apply to content with redeeming value or regulate content. The bill merely proposes that Web porn be treated in the same manner as the print media.

Unfortunately, the Web is awash in degrading smut. There are literally thousands of sites dedicated to every manner of perversion and brutality. This is nothing less than an attempt to protect childhood. I urge all Members to join us in supporting this legislation.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. MANTON) coauthor of the bill.

Mr. MANTON. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MARKEY) for yielding me this time.

Mr. Speaker, I rise today in strong support of this legislation, as amended. I am proud to be a cosponsor of this bill and to urge all of my colleagues to support its passage.

The Internet is one of our society's most valuable educational tools and an exciting entertainment medium for children. It allows them to access information and learn about the world in

a way no past generation has experienced. Unfortunately, it can also be a dangerous place for children who either knowingly or unwittingly stumble across pornographic material.

We can all agree that children should not have access to pornography via the Internet, but how to achieve this end while upholding the First Amendment rights of adults is a delicate task. I believe the Child On-line Protection Act will go a long way toward protecting children, but do so in the least restrictive manner, ensuring the rights of adults are not compromised.

Mr. Speaker, this bill addresses a very serious problem. With estimates that close to 28,000 pornography Websites exist today, it is clear that we must act to keep such material from our children.

I would like to thank both the gentleman from Ohio (Mr. OXLEY) and the gentleman from Pennsylvania (Mr. GREENWOOD) for all of their hard work in bringing this legislation before us today.

Again, I urge my colleagues to support the Child On-line Protection Act.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) for yielding me this time.

Mr. Speaker, and I also rise to support the Child On-line Protection Act. In the Greenwood house, we have a small room. It is the playroom. And as my two little daughters, Laura and Katy, have grown up, it has been kind of fun to watch the transition of the toys in their playroom.

When we got our computer, we put it in the playroom, figuring that as time goes by and they grow, they will shift from the toys and spend more time with their studies and computers. At any given time, I can walk in the playroom and see one of my daughters on the computer and another playing with her dollhouse or maybe some of her toys inspired by Disney movies.

As the gentleman from Ohio (Mr. OXLEY) said, the terrible problem is that if my daughter sits at the computer and types in a word like "dollhouse" or "toys" or "Disney" even, she could find herself at the direct access to pornographic sites.

The Communications Decency Act was our first effort to try to stop this problem, a problem that every parent in America wants us to address. Of course that was struck down first by a circuit court in my area, Philadelphia, and then by the Supreme Court. So, we looked for a new standard, and we found the standard that meets the Court's guidelines in H.R. 3783.

The principle is very simple. The First Amendment certainly protects the right of people to have any kind of literature in their adult bookstores, but it certainly does not mean that proprietors can open an adult bookstore in a mall and display their merchandise on the windows of their store

visible to shoppers, including children, in the store. It is common sense. That is what this legislation does on the Web.

There are adult movie theaters, so-called adult movie theaters, where there are pornographic films, but the purveyors of those films cannot display their videos on the marquee visible to people on the sidewalk.

This legislation, by simply requiring adult access to these sites, is consistent with the First Amendment rights outlined by the Supreme Court and certainly consistent with the will and the wishes of every parent, including this parent, that our children be protected from that material and that it be accessible only by adults with the correct code or Visa card.

Mr. Speaker, I urge support of the legislation.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I congratulate my colleague from Massachusetts on the privacy protections here. They are very, very important.

□ 1630

I wish they were coming up as a separate bill, because they are attached to a bill which I believe will be found unconstitutional and which ought not to be passed.

Obviously, it is important to try to protect minors from being exploited and abused and exposed to inappropriate material on the internet. But it is important to do that in a way that does not interfere with the constitutional right of adults to communicate with each other. The operative part of this bill, on page 4, says it is a crime to make any communication for commercial purposes available to any minor. That does not mean that the communication was aimed at the minor: to make it available to a minor. That means an entity is held responsible for anybody who has access to the internet.

Now, here is the problem we have. We have in this country a great deal of free speech. If we are writing or speaking or communicating ideas in a non-electronic context, we have more freedom in America than in any other country. But we began in the 1930s, because of the limited radio spectrum, a second doctrine on freedom of expression. Freedom of expression does not fully apply, we said, if it is electronically communicated. Well, the courts are no longer maintaining that strict definition, because the basis, the limited spectrum, the notion of the public interest, does not quite control.

We are in danger now of having two separate standards because, clearly, this standard where we would be committing a crime if we made any communication for commercial purposes available to a minor, that was harmful to a minor, that would not obviously even be offered for a newspaper, for a

magazine or for a book. And the notion that we should give a lesser standard of constitutional protection for freedom of expression because it is electronically communicated is not only mistaken, but given that we will increasingly communicate with each other electronically, it will erode our freedom.

In the definition of harmful to a minor it says obscenity or another category. This bill specifically says it regulates nonobscene material if the material appeals on the whole to prurient interests. And, again, it does not only deal with material aimed at minors. If we put something on the web that is not obscene, and it has an appeal to prurient interests and is then judged harmful to minors, we can be guilty of a crime. This will further erode the notion of freedom of speech.

So I welcome the privacy protections here, and I understand the importance of trying to protect children, but doing it in a way that says, and let me be very clear that this is what this says, nonobscene material that is constitutionally protected, because the bill explicitly says it is banning obscene material and nonobscene material if it is harmful to minors. If we put that on the web and a minor sees it, we can be criminally liable even if we were not even making any efforts to try to aim it at the minor.

This is far too broad. I believe it will be held unconstitutional. That is why the Justice Department asked us to hold off. I think it would be a grave error to do this today.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume just to respond.

First of all, I want to point out that the harmful to minor standard was upheld in 1969 by the Supreme Court itself and that 48 States have such standards in their State laws. Five circuit courts have already examined those and approved those as constitutional, and that is the standard used in this bill.

Secondly, I would point out that the owners and producers of these sites are liable only if they are commercial operators who do not put in filtering devices where parents can say yes or no. If in fact the filtering device is in place, and the parents say it is okay for our children to see this stuff, so be it. It simply requires, if someone is going to go into the commercial business of putting material that is harmful to minors under that Supreme Court standard on the internet, that that material must contain a filtering device so that parents have the ability to say yes or no.

That is the sum and substance of the bill. And, again, I would urge its adoption.

Mr. Speaker, I yield 1 minute to the gentleman from Washington State (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I have four children, they are 14, 12, 9 and 7. They use the internet all the time. And I can



tell my colleagues we do have a real problem in terms of their access to pornography that might exist on the internet.

I would also say, however, that a law is not always the best way to solve these problems. And I think we know our laws do not apply in Amsterdam. They sometimes breed a false sense of security. And, even worse, they sometimes lock us into the wrong technology, technology that is obsolete and will not do as good a job as technology that might come along in the future.

So I think it is no secret to my friends on the committee that I would have preferred to wait a year to let the technology community really give us their input on this bill. The committee felt otherwise, and I know many of my colleagues feel otherwise. And, frankly, working together, we have produced a very good bill.

The main improvement that I see in this bill, and one that we should focus on, is we call for a commission made up of 16 members from the technology community and 3 members of government who will report to us in 1 year as to whether this is the best way to solve this problem, or whether there are other technologies out there that we are not aware of that might do a better job of helping us solve this problem.

So with that improvement, I think this bill is a good bill, deserves our support, and I urge my colleagues to vote for it.

Mr. TAUZIN. Mr. Speaker, may I inquire of the time remaining?

The SPEAKER pro tempore (Mr. NEY). The gentleman from Louisiana (Mr. TAUZIN) has 9 minutes remaining; and the gentleman from Massachusetts (Mr. MARKEY) has 8 minutes remaining.

Mr. MARKEY. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Texas (Ms. SHEILA JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time and I rise vigorously to support this legislation. And, Mr. Speaker, I want to thank the gentleman from Pennsylvania (Mr. GREENWOOD), the gentleman from Ohio (Mr. OXLEY), the gentleman from New York (Mr. MANTON), the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Virginia (Mr. BILEY), and as well the gentleman from Michigan (Mr. DINGELL).

This legislation did not come through the House Committee on the Judiciary, but I think that we can always consider ways to ensure its constitutionality. My real concern is the children of America. As a chair of the Congressional Children's Caucus, and one who has interacted frequently in my local community as a former city council member, recognizing the vital role that computers play and the internet plays in schools, in churches, in homes, and in libraries, and our children are in all those places, it is for that very reason I do not believe this legislation sets the bar too high to protect our children.

Frankly, it is tragic that we have to even do this, because this is good technology. The internet and the online services are good technology. I know that we were together 1 or 2 years ago in the telecommunications conference where we tried the v-chip, and we know what happened with that, but we are back here trying to do it the right way on the internet, and the internet does have a free flow in reaching our children.

I am particularly gratified for the leadership of the gentleman from Massachusetts on some very vital points as to parents. Parents, listen to this, for information is always gathered about our children. But with the children's privacy provision it is important to realize that parents must have knowledge about the gathering of this material, even if it is a toy company trying to find out what our children like to play with. Then, the notice must be given of the company's or the user's or the gatherer's use of that material. And then, as well, if it is not comporting with what the parents originally thought it was going to be used for, the gathering of that material, the parent, the child, can say no. I think that we are at a point in this country where that is a responsible way to go.

As a member of the Subcommittee on Crime of the Committee on the Judiciary, I can assure my colleagues that solicitation of children over the internet is a growing problem, pornography on the internet is a growing problem, and children's access to the internet is a growing problem in contrast to what they are receiving. So I do not think we can finish this session of Congress without getting a bill out of the House that emphasizes the importance of keeping children away from pornographic issues or pornographic material, obscene materials, on the internet and, likewise, protecting them.

So I would simply extend my thanks for providing us with a framework within which we can work. Let the parents of America recognize that we are giving them a tool reasonably grounded in the constitutional right to privacy and the first amendment, and I know we can work on it additionally.

I see my good friend from Louisiana standing, and there were some points made on this issue dealing with the Constitution. I know we are working very hard, because the computer industry or the internet providers are a powerful group, and I hope that they respect what the FCC has done in working with the gentleman. We are going to be reasonable about the amendment.

Mr. TAUZIN. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, first, let me commend the gentlewoman for an excellent statement and, indeed, to confirm her statement. We have been very careful about using the language that the courts have already approved on the standard, the one approved by

the Supreme Court. We have crafted the bill so that it applies only to commercial sites and not to ordinary speakers.

Ms. JACKSON-LEE of Texas. Mr. Speaker, reclaiming my time, I thank the gentleman for the time and for an excellent piece of legislation.

Mr. Speaker, thank you for the opportunity to speak on this bill this morning. The Child Online Protection Act will require operators of commercial adult World Wide Web sites to protect our children from exposure to pornographic materials.

The Internet was designed by innovators, visionaries in the scientific and academic community to expand our horizons, to help us learn about each other and to have simple access to new information, ideas and data. The net has now moved far beyond an educational tool and has become a global phenomenon of communication and commerce. Although the Web can be a fantastic vehicle for enriching our lives, we must also keep unwanted sexual imagery and pornography from invading our children's lives.

I support this bill in that it requires the operators of commercial adult sites to act responsibly in taking steps to restrict children's access to pornographic sites. This bill does not restrict an adults' right to access adult material on the net, it simply requires that users have a verified credit card number or adult personal identification number to access adult materials.

Protecting our children from pornography is a challenge, but as a parent and as Chair of the Congressional Children's Caucus, we must make every effort to do so.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, I rise in strong support of the Child Online Protection Act. It is our duty to protect America's children from online pornographers.

Kids in America know computers. They are being raised in an age where information is at their fingertips; at the flip of a switch or at the click of a mouse. While internet access is an incredible enhancer of learning, our kids are also put in danger of exposure to pornographic materials.

The Child Online Protection Act would require operators of commercial adult worldwide web sites to take steps to restrict children's access to pornographic materials. Opponents of this bill will claim that we are attempting to federally censor the internet. This is simply not true. In fact, the legislation specifically states that it must not be construed to authorize the FCC to regulate in any manner the content of any information provided on the worldwide web. The bill simply requires commercial providers to place materials that are harmful to minors on the other side of adult verification technology.

Let us protect our children, let us make the internet more family friendly by passing the Child Online Protection Act today.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).



Mr. FRANK of Massachusetts. Mr. Speaker, as I read this, I do not believe filtering equipment would be a complete affirmative defense, as I read the line about affirmative defenses. But I then had a question. It says material that is harmful to minors, and I gather in a picture or text that would be describing sex and would appeal to prurient interests.

A question would be if a commercial entity took the Starr report, which was not copyrighted, and put it out on the web as part of their business-making enterprise, would a commercial business that put the Starr report out on the web and did not restrict it with filtering information, would that commercial enterprise be subject to a penalty under this bill?

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I thank the gentleman. The answer is no. Because the harmful to minors, as has been interpreted by the courts, it defines harmful to minors as not covering content which, taken as a whole, has serious literary, artistic, political or scientific value. And I think it is pretty clear this has political content.

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Speaker, if the gentleman is talking about the Starr report, I guess maybe he is right. It certainly does not have any literary value or scientific value or artistic value. But from the standpoint of his party, it has political value, so maybe it would get off.

Mr. OXLEY. The gentleman can interpret it however he wants.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 1 minute to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON. Mr. Speaker, I rise in support of this bill, and I appreciate this bill for a number of reasons. In my view it is really the brown paper wrapper approach to the internet, where technology has really exceeded our ability as parents to protect our children from things that we would like to protect them from.

By making commercial sale against the law in the internet without age verification, we are really doing no more than is required by most Circle K's or convenience stores, and I think that that is the right way to approach it.

I also appreciate that this bill includes studies on filtering and other methods, like zoning, that may be able to help parents and help schools without prescribing an answer before we know what the technology is capable of.

□ 1645

I think that that is also a rational approach to solving this problem. I appreciate the amendment that protects personal information of children on-

line. As a parent, I understand the strengths and benefits of the Internet. But it also has the potential to exceed our ability as parents to control the access of our children to things that they may not even know they are accessing.

Let us give ourselves another tool. Let us give ourselves that electronic brown paper wrapper.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume. I want to point out that the gentleman from Washington (Mr. WHITE) and I have authored a bill that codifies in law the concept of forbearance of regulating the Internet. The FCC has voluntarily forbore any regulations of the Internet and we think that is proper. The bill we have offered indicates that the FCC should continue in that forbearance but that where and if areas of concern arise, such as this area of harmfulness to minors, that the Congress itself should make the decisions about how and where the Internet should be affected by any such restrictions or regulations. It is for that reason that we think this bill is very much in line with the concept of the White bill that we have earlier offered and which we will try to pursue passage in a future Congress.

The concept again is that the Internet should be as free and open as possible. Otherwise, it cannot be the place where free expression under the first amendment is fully utilized as we all want it to be. But where areas exist, such as in this area of harmfulness to minors or areas where minors' information is being taken from them without parental consent, this is the area where Congress itself should express those areas of concern and come up with solutions. This bill is an honest attempt to do that.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise today in support of H.R. 3783. I believe it is fundamentally important that as the representatives of our Nation, we do everything we can to protect our children from the detrimental effects of pornography reaching their eyes.

This bill as it is tailored to withstand the legal requirements established by the Supreme Court when it struck down the Communications Decency Act. The bill uses the constitutionally defensible "harmful to minors" standard rather than the constitutionally questionable "decency" standard. The bill prohibits businesses from selling or transferring through the Internet material that is harmful to minors. Businesses would be in compliance of the law and not liable to prosecution if they adhere to some "affirmative defenses" in the conduct of their businesses. An example of an affirmative defense for a company would be requiring the use of a credit card, debit account or some type of "adult access code."

This is an integral bill that will be good for the Nation. I urge my colleagues' support.

Mr. BLILEY. Mr. Speaker, as the Commerce Committee has learned during the course of the 105th Congress, the Internet, and consequently, electronic commerce, will only continue to develop if it is safe, secure, and private. H.R. 3783 addresses the "safety" of the Internet and provides an effective means to help protect children online.

Pornography is widely available on the Internet. According to Wired Magazine, there are approximately 28,000 adult Web sites promoting pornography and these sites generate close to \$925 million in revenues. While adults have a right to view this material, parents, educators, and civic groups agree that exposure to pornography is not appropriate for minors. Forty-eight States agree with this assessment and have adopted "harmful to minor" statutes.

Whether these States require porn to be sold behind the counter at a drug store, on blinder racks at a convenient store, or in a shrink wrap at a news stand, each of them recognizes the proper role government can play to help restrict a child's access to inappropriate material. The purpose of H.R. 3783 is to extend those protections in cyberspace by restricting the sale of material harmful to minors over the World Wide Web.

Most opponents of legislation continue to argue that adult verification systems are not fool proof and that industry needs more time to come up with effective solutions. On the one hand, I agree that no solution is perfect, not even requiring the sale of pornography behind the counter at a drug store. On the other hand, delaying for another year does nothing to help the parents and educators today.

We can continue to debate the effectiveness of filtering software, rating systems, and adult domain name zoning, but none of these solutions apply the necessary burden on the appropriate industry, that is, the adult entertainment industry. I applaud the efforts of the software industry to develop filtering software and other technological solutions, but the law should impose duties on the source of the problem, not the victims.

H.R. 3783 does not "burn the house to roast the pig." Adults may still view any materials on the Internet they wish, with minimal inconvenience, and engage in adult conversations in chat rooms, e-mails, and bulletin board services. Thus, H.R. 3783 strikes the appropriate balance between the First Amendment rights of adults and the government's compelling interest to protect children.

The amendment we are considering today also contains privacy protections for kids. These provisions generally prohibit businesses from collecting personal information from a child online without the parent's consent.

Legislation will not solve all the problems. Parents, educators, and industry must continue to play a role to ensure that kids are protected online.

I thank Mr. OXLEY and Mr. GREENWOOD for their leadership and Mr. TAUZIN for helping to move the bill along.

Mr. DINGELL. Mr. Speaker, we are attempting to accomplish a laudable goal in this legislation. Parents are clamoring for ways to protect their kids from the onslaught of pornographic material on the Internet, and Congress has a responsibility to assist them in whatever

ways it can. However, we have been down this road before, and our most recent attempt was met with a resounding rebuke from the Supreme Court. The Communications Decency Act was declared unconstitutional by a unanimous vote, and I harbor serious concerns that this bill will meet the same fate.

While the notion of regulating materials which are deemed "harmful to minors" sounds appealing, it raises many practical concerns. Who decides what materials are "harmful to minors?" Should the standard be community-based, or national? If local judgments about the suitability of materials differ around the country, how can a global medium such as the Internet respond to these different views? For example, will the Internet sale of mainstream movies and sound recordings be subject to the most conservative community's view of what is harmful to minors, exposing itself to civil and criminal penalties in the process? If a chill is placed on the sale of these materials, what will be the practical effect on the growth of electronic commerce?

These questions and many more should be addressed before we rush to adopt an easy fix to a complex problem. The Supreme Court is likely to force Congress's hand on these matters, and reiterate its demand for a more thorough evaluation if and when this legislation is enacted.

Mr. PITTS. Mr. Speaker, I rise in strong support of the Child Online Protection Act.

It is our duty to protect America's children from online pornographers.

Kids in America know computers. They are being raised in an age where information is at their fingertips at the flip of a switch and a click of the mouse.

While Internet access is an incredible enhancer of learning, our kids are also put in danger of exposure to pornographic materials.

The Child Online Protection Act would require operators of commercial adult World Wide Web sites to take steps to restrict children's access to pornographic materials.

Opponents of this bill will claim that we are attempting to federally censor the Internet. This is simply not true. The bill simply requires commercial providers to place materials that are "harmful to minors" on the other side of adult verification technology.

Let's protect our children and make the Internet more family friendly by passing the Child Online Protection Act today.

Mr. TAUZIN. Mr. Speaker, I again want to thank the gentleman from Ohio (Mr. OXLEY) the principal author of the bill and the gentleman from Massachusetts (Mr. MARKEY) who has indeed improved it so much with the privacy provisions.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NEY). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 3783, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A Bill to amend the Communications Act of 1934 to require per-

sons who are engaged in the business of distributing, by means of the World Wide Web, material that is harmful to minors to restrict access to such material by minors, and for other purposes."

A motion to reconsider was laid on the table.

#### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed bills of the following titles in which the concurrence of the House is requested:

S. 505. An act to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

S. 2561. An act to amend the Fair Credit Reporting Act with respect to furnishing and using consumer reports for employment purposes.

#### REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4104, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105-790) on the resolution (H. Res. 579) waiving points of order against the conference report to accompany the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 131, WAIVING ENROLLMENT REQUIREMENTS FOR REMAINDER OF 105TH CONGRESS WITH RESPECT TO ANY BILL OR JOINT RESOLUTION MAKING GENERAL OR CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1999

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105-791) on the resolution (H. Res. 580) providing for consideration of the joint resolution (H.J.Res. 131) waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999, which was referred to the House Calendar and ordered to be printed.

#### ANNOUNCEMENT REGARDING LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. MCINNIS. Mr. Speaker, pursuant to House Resolution 575, I announce

the following suspension to be considered today:

S. 505.

#### WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4104, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 579 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 579

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the proposed rule for the conference report to accompany H.R. 4104, the Treasury, Postal Service, and General Government Appropriations bill for fiscal year 1999 waives all points of order against the conference report and against its consideration. The rule provides that the conference report will be considered as read.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank my very dear friend and my colleague from Colorado (Mr. MCINNIS) for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to oppose this rule and oppose the conference report. I realize we are nearing the end of our session and I understand that tempers are growing very short, but I am also very disappointed to hear that my Republican colleagues on the Treasury-Postal conference committee have deleted some Democrat-supported provisions, and it appears that they did so without any Democratic participation.

As late as yesterday afternoon, discussions between Democrat and Republican conferees were ongoing and all indications were that the conference report would pass with a bipartisan majority. But this morning without so much as a notice of meeting, my Democratic colleagues learned that these Democratic provisions had been taken