

105TH CONGRESS  
2D SESSION

# H. R. 3783

To amend section 223 of the Communications Act of 1934 to require persons who are engaged in the business 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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 1998

Mr. OXLEY (for himself, Mr. GREENWOOD, Mr. MANTON, Mr. GILLMOR, Mr. DEAL of Georgia, Mr. WHITFIELD, Mr. NORWOOD, Mrs. CUBIN, Mr. BURR of North Carolina, and Mr. UPTON) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend section 223 of the Communications Act of 1934 to require persons who are engaged in the business 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.

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 “Child Online Protec-  
5 tion Act”.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 The Congress finds that—

3 (1) as access to and use of the World Wide  
4 Web becomes ubiquitous, the Web and information  
5 transmitted over it may become more invasive and  
6 intrusive in individual and family lives;

7 (2) children now have greater opportunities for  
8 access to the World Wide Web and such access is  
9 continually expanding;

10 (3) while custody, care, and nurture of the child  
11 reside first with the parent, the widespread availabil-  
12 ity of computers presents opportunities for minors to  
13 access materials through the World Wide Web in a  
14 manner that can frustrate parental supervision or  
15 control;

16 (4) the protection of the physical and psycho-  
17 logical well-being of minors by shielding them from  
18 materials that are harmful to them is a compelling  
19 governmental interest; and

20 (5) the Federal Government has a compelling  
21 interest in ensuring that minors are restricted in  
22 their access to materials sold or transferred by  
23 means of the World Wide Web that are harmful to  
24 minors.

1 **SEC. 3. REQUIREMENT TO RESTRICT ACCESS BY MINORS**  
2 **TO MATERIALS SOLD OR TRANSFERRED BY**  
3 **MEANS OF THE WORLD WIDE WEB THAT ARE**  
4 **HARMFUL TO MINORS.**

5 (a) REQUIREMENT.—

6 (1) IN GENERAL.—Section 223 of the Commu-  
7 nications Act of 1934 (47 U.S.C. 223) is amended—

8 (A) by redesignating subsections (e), (f),  
9 (g), and (h) as subsections (f), (g), (h), and (i),  
10 respectively; and

11 (B) by inserting after subsection (d) the  
12 following new subsection (e):

13 “(e)(1) Whoever in interstate or foreign commerce is  
14 engaged in the business of selling or transferring, by  
15 means of the World Wide Web, material that is harmful  
16 to minors shall restrict access to such material by persons  
17 under 17 years of age.

18 “(2) Any person who violates paragraph (1) shall be  
19 fined not more than \$50,000, imprisoned not more than  
20 six months, or both.

21 “(3) In addition to the penalties under paragraph (2),  
22 whoever intentionally violates paragraph (1) shall be sub-  
23 ject to a fine of not more than \$50,000 for each violation.  
24 For purposes of this paragraph, each day of violation shall  
25 constitute a separate violation.

1       “(4) In addition to the penalties under paragraphs  
2 (2) and (3), whoever violates paragraph (1) shall be sub-  
3 ject to a civil fine of not more than \$50,000 for each viola-  
4 tion. For purposes of this paragraph, each day of violation  
5 shall constitute a separate violation.

6       “(5) It is an affirmative defense to prosecution under  
7 this subsection that the defendant restricted access to ma-  
8 terial that is harmful to minors by persons under 17 years  
9 of age by requiring use of a verified credit card, debit ac-  
10 count, adult access code, or adult personal identification  
11 number or in accordance with such other procedures as  
12 the Commission may prescribe.

13       “(6) This subsection may not be construed to author-  
14 ize the Commission to regulate in any manner the content  
15 of any information provided by means of the World Wide  
16 Web.

17       “(7) For purposes of this subsection:

18               “(A) The term ‘by means of the World Wide  
19 Web’ means by placement of material in a computer  
20 server-based file archive so that it is publicly acces-  
21 sible, over the Internet, using hypertext transfer pro-  
22 tocol, file transfer protocol, or other similar proto-  
23 cols.

24               “(B) The term ‘engaged in the business’ means  
25 that the person who sells or transfers or offers to

1 sell or transfer, by means of the World Wide Web,  
2 material that is harmful to minors devotes time, at-  
3 tention, or labor to such activities, as a regular  
4 course of trade or business, with the objective of  
5 earning a profit, although it is not necessary that  
6 the person make a profit or that the selling or trans-  
7 ferring or offering to sell or transfer such material  
8 be the person's sole or principal business or source  
9 of income.

10 “(C) The term ‘Internet’ means the combina-  
11 tion of computer facilities and electromagnetic trans-  
12 mission media, and related equipment and software,  
13 comprising the interconnected worldwide network of  
14 computer networks that employ the Transmission  
15 Control Protocol/Internet Protocol, or any prede-  
16 cessor or successor protocol to transmit information.

17 “(D) The term ‘material that is harmful to mi-  
18 nors’ means any communication, picture, image,  
19 graphic image file, article, recording, writing, or  
20 other matter of any kind that—

21 “(i) taken as a whole and with respect to  
22 minors, appeals to a prurient interest in nudity,  
23 sex, or excretion;

24 “(ii) depicts, describes, or represents, in a  
25 patently offensive way with respect to what is

1 suitable for minors, an actual or simulated sex-  
2 ual act or sexual contact, actual or simulated  
3 normal or perverted sexual acts, or a lewd exhi-  
4 bition of the genitals; and

5 “(iii) taken as a whole, lacks serious lit-  
6 erary, artistic, political, or scientific value for  
7 minors.

8 “(E) The terms ‘sexual act’ and ‘sexual contact’  
9 have the meanings given such terms in section 2246  
10 of title 18, United States Code.”.

11 (2) CONFORMING AMENDMENT.—Subsection (g)  
12 of such section, as so redesignated, is amended by  
13 striking “(e), or (f)” and inserting “(f), or (g)”.

14 (b) AVAILABILITY ON INTERNET OF DEFINITION OF  
15 MATERIAL THAT IS HARMFUL TO MINORS.—The Federal  
16 Communications Commission shall post or otherwise make  
17 available on the World Wide Web site of the Commission  
18 such information as is necessary to inform the public of  
19 the meaning of the term “material that is harmful to mi-  
20 nors” under section 223(e) of the Communications Act of  
21 1934, as amended by subsection (a).

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