

According to the Freedom House Survey of the World Freedom, Bongo was declared the winner before many voters were counted and after a campaign that included extensive use of state resources and state media. Further, widespread irregularities were reported by the International Foundation for Election Systems (IFES) and the National Democratic Institute (NDI), which served as observers during the Gabonese presidential and legislative elections in 1993.

The electoral victory by President Bongo led to several months of civil unrest and violent repression. Some observers in Gabon believe more civil unrest will occur if the presidential elections this December are considered illegitimate. A free and fair electoral system would further democracy and stability in Gabon and set an example for other African nations.

Mr. President, this resolution calls on the Gabonese government to take measures to help ensure credible presidential elections. The measure calls on the government to invite IFES, the NDI, the International Republican Institute (IRI), the Center for Democracy or other appropriate non-governmental organizations to aid or observe the December 1998 Gabonese presidential elections.

The resolution also urges the United States and the international community to offer assistance for fair elections in Gabon and to encourage movement toward a stable democracy.

Gabon is at a turning point. It enjoys a per capita income of \$4,700, a high literacy rate (69 percent), and a billion dollar oil industry. The United States Senate would be aiding Gabon in the establishment of a stronger democracy that can help bring stability to a volatile region of Africa.

I urge my colleagues to consider the benefits of free and fair elections in Gabon and to support this resolution.●

SENATE RESOLUTION 286—EX-PRESSING THE SENSE OF THE SENATE THAT MARK MCGWIRE AND SAMMY SOSA SHOULD BE COMMENDED FOR THEIR ACCOMPLISHMENTS

Mr. MACK submitted the following resolution; which was considered and agreed to.

S. RES. 286

Whereas the recent conclusion of the regular baseball season marked the end of an unprecedented home run race between the St. Louis Cardinals' Mark McGwire and the Chicago Cubs' Sammy Sosa;

Whereas both broke Roger Maris' home run record that many thought would stand untouched as indeed it has since Maris passed the "Babe" by one home run when he hit his 61st some 37 years ago;

Whereas "Mighty Mac" rounded out his record setting season by sending two more over the fence in the team's final game to finish the year with 70 home runs while "Slammin' Sammy" finished close behind with 66;

Whereas McGwire and Sosa brought to the game much more than a new record for the

books, even though they are both great competitors, they showed the nation how competitors can show mutual respect and appreciation toward each other and to the game;

Whereas Mark McGwire is surely an ideal role model for tomorrow's baseball stars as evidenced by his quiet dignity, love of the game and respect for his competitors which was clearly demonstrated the night he broke the home run record—from his triumphant jog around the bases, to hugging his son at home plate, to saluting Sammy Sosa, and then finally spending a few moments in the stands with the family of Roger Maris;

Whereas Sammy Sosa who stayed on McGwire's heels throughout the home run chase is also a role model who, as a native from the Dominican Republic, rose from near poverty to be one of the greatest home run hitters in the history of the game, and is a hero in his home country where he continues to share his success by funding special programs for its underprivileged children;

Whereas the nation witnessed this year a flashback to an earlier time when the fans felt a connection to the players and the players gave their all for the fans;

Whereas baseball is a game of magic moments, like a perfect game or a triple play—or watching the ball fly over the fence for a home run, and, this year, McGwire and Sosa brought the nation plenty of those magic moments; and

Whereas through class and character Mark McGwire and Sammy Sosa are modern day heroes who brought out the best in baseball and reminded us all why baseball is the great American past time: Now, therefore, be it

Resolved, Mark McGwire and Sammy Sosa are to be commended for their record achievement, for reinvigorating the game of baseball, for their decency, and for giving our children sports heroes worthy of that status.

Mr. MACK. Mr. President, this morning I have sent a resolution to the desk commending Mark McGwire and Sammy Sosa for a remarkable baseball season. I suspect that many of our colleagues in the Senate, and the entire Nation, for that matter, were focused on that last couple of weeks, the contest between those two individuals.

I think, at least from my perspective as I watched events unfold, there were times people would come up to me and ask, Who do you want to win? My reaction was—like, I suspect, many others'—it would have been great if it was a tie.

The way the two individuals interacted with each other and their attitude about the game were just, I think, a remarkable statement.

SENATE RESOLUTION 287—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which considered and agreed to:

S. RES. 287

Whereas, Senator Daniel K. Inouye has been named as a defendant in the case of *O'Leary v. Fujikawa, et al.*, Case No. 98-16439, now pending in the United States Court of Appeals for the Ninth Circuit;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.C.S. §§ 288b(a) and 288c(a)(1), the Senate may direct its counsel to represent

Members of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Daniel K. Inouye in the case of *O'Leary v. Fujikawa, et al.*

AMENDMENTS SUBMITTED

INTERNET TAX FREEDOM ACT

SHELBY AMENDMENTS NOS. 3685–3694

(Ordered to lie on the table.)

Mr. SHELBY submitted 10 amendments intended to be proposed by him to the bill (S. 442) to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes; as follows:

AMENDMENT No. 3685

On page 14, line 8, strike "2 years" and insert "21 months".

AMENDMENT No. 3686

On page 14, line 8, strike "2 years" and insert "24 months".

AMENDMENT No. 3687

On page 14, line 8, strike "2 years" and insert "27 months".

AMENDMENT No. 3688

On page 14, line 8, strike "2 years" and insert "30 months".

AMENDMENT No. 3689

On page 14, line 8, strike "2 years" and insert "33 months".

AMENDMENT No. 3690

On page 10, line 22, strike "January 1, 2004," and insert "January 1, 2005,".

AMENDMENT No. 3691

On page 10, line 22, strike "January 1, 2004," and insert "January 1, 2006,".

AMENDMENT No. 3692

On page 10, line 22, strike "January 1, 2004," and insert "January 1, 2007,".

AMENDMENT No. 3693

On page 10, line 22, strike "January 1, 2004," and insert "January 1, 2008,".

AMENDMENT No. 3694

On page 10, line 22, strike "January 1, 2004," and insert "January 1, 2009,".

COATS AMENDMENT NO. 3695

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill, S. 442, supra; as follows:

On page 17, between lines 15 and 16, insert the following:

(c) EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply in the case of any person or entity

who in interstate or foreign commerce is knowingly engaged in the business of selling or transferring, by means of the World Wide Web, material that is harmful to minors unless such person or entity requires the use of a verified credit card, debit account, adult access code, or adult personal identification number, or such other procedures as the Federal Communications Commission may prescribe, in order to restrict access to such material by persons under 17 years of age.

(2) SCOPE OF EXCEPTION.—For purposes of paragraph (1), a person shall not be considered to be engaged in the business of selling or transferring material by means of the World Wide Web to the extent that the person is—

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

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

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

(D) 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 communication.

(3) DEFINITIONS.—In this subsection:

(A) 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, file transfer protocol, or other similar protocols.

(B) ENGAGED IN THE BUSINESS.—The term “engaged in the business” means that the person who sells or transfers or offers to sell or transfer, by means of the World Wide Web, material that is harmful to minors devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income.

(C) 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 predecessor or successor protocol, to transmit information.

(D) 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.

(E) 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.

(F) 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—

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

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

is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

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

(G) SEXUAL ACT; SEXUAL CONTACT.—The terms “sexual act” and “sexual contact” have the meanings given such terms in section 2246 of title 18, United States Code.

(H) TELECOMMUNICATIONS CARRIER; TELECOMMUNICATIONS SERVICE.—The terms “telecommunications carrier” and “telecommunications service” have the meanings given such terms in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

GRAMM AMENDMENTS NOS. 3696–3704

(Ordered to lie on the table.)

Mr. GRAMM submitted nine amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT No. 3696

Beginning on page 20, line 1, strike all and insert in lieu thereof the following:

Selected not later than 70 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in elec-

tronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term “bit tax” means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term “discriminatory tax” means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or

such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) **ELECTRONIC COMMERCE.**—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **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 predecessor or successor protocol, to transmit information.

(5) **INTERNET ACCESS.**—The term “Internet access” 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.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) **SALES OR USE TAX.**—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) **STATE.**—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) **EXCEPTION.**—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) **TELECOMMUNICATIONS SERVICES.**—The term “telecommunications services” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C.

153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce,”;

and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce,”; and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with,”; and

(3) by adding at the end the following new subsection:

“(d) **ELECTRONIC COMMERCE.**—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.”.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the Americas, the North American Free Trade Agreement, and other appropriate venues.

(b) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic commerce” has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Government Paperwork Elimination Act.”

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

“(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.”.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and

the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

- (1) it involves the administration of the internal revenue laws; and
- (2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) **EXECUTIVE AGENCY.**—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(2) **ELECTRONIC SIGNATURE.**—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person’s approval of the information contained in such electronic message.

(3) **FORM, QUESTIONNAIRE, OR SURVEY.**—The terms “form”, “questionnaire”, and “survey” include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Online Privacy Protection Act of 1999”.

SEC. 202. DEFINITIONS.

In this title:

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

(2) **OPERATOR.**—The term “operator”—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of

or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

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

(ii) 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

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) 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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) 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 from that child; and

(iii) notwithstanding any other provision of law, 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; and

(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.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service pro-

vided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, 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. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 293, 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

AMENDMENT NO. 3697

Beginning on page 19, strike line 24 and all that follows and insert in lieu thereof the following:

than 90 days after the date of the enactment of this Act. The Chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between

the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or

through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) 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 predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term "Internet access" 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.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term "multiple tax" means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term "sales or use tax" means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term "tax" means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term "telecommunications services" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

"(iii) United States electronic commerce,";

and

(B) in subparagraph (C)—

(i) by striking "and" at the end of clause (i);

(ii) by inserting "and" at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

"(iii) the value of additional United States electronic commerce,"; and

(iv) by inserting "or transacted with," after "or invested in";

(2) in subsection (a)(2)(E)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

"(iii) the value of electronic commerce transacted with,"; and

(3) by adding at the end the following new subsection:

"(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act."

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the Americas, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term "electronic commerce" has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures."

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security

and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person’s approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms “form”, “questionnaire”, and “survey” include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Online Privacy Protection Act of 1999”.

SEC. 202. DEFINITIONS.

In this title:

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

(2) OPERATOR.—The term “operator”—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

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

(ii) 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

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) 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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) 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 from that child; and

(iii) notwithstanding any other provision of law, 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; and

(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.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, 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(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. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 293, 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

AMENDMENT NO. 3698

Beginning on page 19, strike line 7 and all that follows and insert in lieu thereof the following:

(C) Ten representatives of the electronic industry and consumer groups comprised of—

(i) three representatives appointed by the Majority Leader of the Senate;

(ii) two representatives appointed by the Minority Leader of the Senate;

(iii) three representatives appointed by the Speaker of the House of Representatives; and

(iv) two representatives appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) 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 predecessor or successor protocol, to transmit information.

(5) **INTERNET ACCESS.**—The term “Internet access” 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.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) **SALES OR USE TAX.**—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) **STATE.**—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) **EXCEPTION.**—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) **TELECOMMUNICATIONS SERVICES.**—The term “telecommunications services” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce;” and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce;” and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with;” and

(3) by adding at the end the following new subsection:

“(d) **ELECTRONIC COMMERCE.**—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.”

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(A) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the Americas, the North American Free Trade Agreement, and other appropriate venues.

(B) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(C) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic commerce” has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Government Paperwork Elimination Act.”

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

“(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.”

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures

and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person’s approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms “form”, “questionnaire”, and “survey” include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Online Privacy Protection Act of 1999”.

SEC. 202. DEFINITIONS.

In this title:

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

(2) OPERATOR.—The term “operator”—
(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

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

(ii) 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
(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) 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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) 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 from that child; and

(iii) notwithstanding any other provision of law, 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; and

(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.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) **TERMINATION OF SERVICE.**—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) **ENFORCEMENT.**—Subject to sections 204 and 206, 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. 204. SAFE HARBORS.

(a) **GUIDELINES.**—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 Com-

mission 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 293, 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(A) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

AMENDMENT NO. 3699

Beginning on page 18, strike line 17 and all that follows and insert in lieu thereof the following:

(B) Ten representatives from State and local governments comprised of—

(i) three representatives appointed by the Majority Leader of the Senate;

(ii) two representatives appointed by the Minority Leader of the Senate;

(iii) three representatives appointed by the Speaker of the House of Representatives; and

(iv) two representatives appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(C) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(D) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(E) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(F) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(G) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly

voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term "electronic commerce" means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **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 predecessor or successor protocol, to transmit information.

(5) **INTERNET ACCESS.**—The term “Internet access” 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.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) **SALES OR USE TAX.**—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) **STATE.**—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) **EXCEPTION.**—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) **TELECOMMUNICATIONS SERVICES.**—The term “telecommunications services” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce,”; and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce,”; and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with,”; and

(3) by adding at the end the following new subsection:

“(d) **ELECTRONIC COMMERCE.**—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.”.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the Americas, the North American Free Trade Agreement, and other appropriate venues.

(b) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic commerce” has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Government Paperwork Elimination Act.”

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

“(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.”.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

- (1) it involves the administration of the internal revenue laws; and
- (2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) **EXECUTIVE AGENCY.**—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(2) **ELECTRONIC SIGNATURE.**—The term “electronic signature” means a method of signing an electronic message that—

- (A) identifies and authenticates a particular person as the source of such electronic message; and
- (B) indicates such person’s approval of the information contained in such electronic message.

(3) **FORM, QUESTIONNAIRE, OR SURVEY.**—The terms “form”, “questionnaire”, and “survey” include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION**SEC. 201. SHORT TITLE.**

This title may be cited as the “Children’s Online Privacy Protection Act of 1999”.

SEC. 202. DEFINITIONS.

In this title:

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

(2) **OPERATOR.**—The term “operator”—
(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

- (i) among the several States or with 1 or more foreign nations;
- (ii) 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
- (iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) 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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

- (i) a description of the specific types of personal information collected from the child by that operator;
- (ii) 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 from that child; and
- (iii) notwithstanding any other provision of law, 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; and

(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.

(2) **WHEN CONSENT NOT REQUIRED.**—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) **TERMINATION OF SERVICE.**—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) **ENFORCEMENT.**—Subject to sections 204 and 206, 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. 204. SAFE HARBORS.

(a) **GUIDELINES.**—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 293, 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 the 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

AMENDMENT NO. 3700

Beginning on page 18, strike line 10 and all that follows and insert in lieu thereof the following:

(A) Five representatives from the Federal Government comprised of the Secretary of Defense, the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or infor-

mation in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) **ELECTRONIC COMMERCE.**—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **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 predecessor or successor protocol, to transmit information.

(5) **INTERNET ACCESS.**—The term “Internet access” 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.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) **SALES OR USE TAX.**—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) **STATE.**—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) **EXCEPTION.**—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) **TELECOMMUNICATIONS SERVICES.**—The term “telecommunications services” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce;” and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce;” and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with;” and

(3) by adding at the end the following new subsection:

“(d) **ELECTRONIC COMMERCE.**—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.”

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the Americas, the North American Free Trade Agreement, and other appropriate venues.

(b) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic com-

merce” has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Government Paperwork Elimination Act.”

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

“(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.”

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submissions of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall

develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

- (1) it involves the administration of the internal revenue laws; and
- (2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

- (1) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.
- (2) ELECTRONIC SIGNATURE.—The term “electronic signature” means a method of signing an electronic message that—
 - (A) identifies and authenticates a particular person as the source of such electronic message; and
 - (B) indicates such person’s approval of the information contained in such electronic message.
- (3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms “form”, “questionnaire”, and “survey” include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Online Privacy Protection Act of 1999”.

SEC. 202. DEFINITIONS.

In this title:

- (1) CHILD.—the term “child” means an individual under the age of 13.
- (2) OPERATOR.—The term “operator”—
 - (A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is col-

lected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

- (i) among the several States or with 1 or more foreign nations;
- (ii) 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
- (iii) between the District of Columbia and any State, territory, or foreign nation; but
- (B) 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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

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

(C) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

- (i) a description of the specific types of personal information collected from the child by that operator;
- (ii) 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 from that child; and

(iii) notwithstanding any other provision of law, 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; and

(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.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service pro-

vided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, 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. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 203, 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

AMENDMENT NO. 3701

Beginning on page 18, strike line 7 and all that follows and insert in lieu thereof the following:

shall serve for twelve months. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term "bit tax" means any tax on electronic commerce expressly imposed on or measured by the volume of

digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) **DISCRIMINATORY TAX.**—The term “discriminatory tax” means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) **ELECTRONIC COMMERCE.**—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **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 predecessor or successor protocol, to transmit information.

(5) **INTERNET ACCESS.**—The term “Internet access” 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.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) **SALES OR USE TAX.**—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) **STATE.**—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) **EXCEPTION.**—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) **TELECOMMUNICATIONS SERVICES.**—The term “telecommunications services” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

“(ii) United States electronic commerce;” and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce;” and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with;” and

(3) by adding at the end the following new subsection:

“(d) **ELECTRONIC COMMERCE.**—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.”

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the Americas, the North American Free Trade Agreement, and other appropriate venues.

(b) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic commerce” has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Government Paperwork Elimination Act.”

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

“(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.”

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and

the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

- (1) it involves the administration of the internal revenue laws; and
- (2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) **EXECUTIVE AGENCY.**—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(2) **ELECTRONIC SIGNATURE.**—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person’s approval of the information contained in such electronic message.

(3) **FORM, QUESTIONNAIRE, OR SURVEY.**—The terms “form”, “questionnaire”, and “survey” include documents produced by an

agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Online Privacy Protection Act of 1999”.

SEC. 202. DEFINITIONS.

In this title:

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

(2) **OPERATOR.**—The term “operator”—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

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

(ii) 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

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) 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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) 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 from that child; and

(iii) notwithstanding any other provision of law, 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; and

(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.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, 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. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 293, 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations

initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

AMENDMENT NO. 3702

Beginning on page 18, strike line 1 and all that follows and insert in lieu thereof the following:

selected by the Speaker of the House of Representatives and the Majority Leader of the Senate; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) **BIT TAX.**—The term “bit tax” means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) **DISCRIMINATORY TAX.**—The term “discriminatory tax” means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) **ELECTRONIC COMMERCE.**—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **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 predecessor or successor protocol, to transmit information.

(5) **INTERNET ACCESS.**—The term “Internet access” 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.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce

that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) **SALES OR USE TAX.**—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) **STATE.**—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) **EXCEPTION.**—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) **TELECOMMUNICATIONS SERVICES.**—The term “telecommunications services” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce;” and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce;” and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with;” and

(3) by adding at the end the following new subsection:

“(d) **ELECTRONIC COMMERCE.**—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.”

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic commerce” has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Government Paperwork Elimination Act.”

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

“(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.”

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with

the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person’s approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms “form”, “questionnaire”, and “survey” include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Online Privacy Protection Act of 1999”.

SEC. 202. DEFINITIONS.

In this title:

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

(2) OPERATOR.—The term “operator”—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

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

(ii) 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

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) 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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) 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 from that child; and

(iii) notwithstanding any other provision of law, 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; and

(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.

(2) **WHEN CONSENT NOT REQUIRED.**—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) **TERMINATION OF SERVICE.**—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) **ENFORCEMENT.**—Subject to sections 204 and 206, 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. 204. SAFE HARBORS.

(a) **GUIDELINES.**—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 293, 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) **IN GENERAL.**—Not later than 5 years after the effective date of the regulations initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

AMENDMENT NO. 3703

Beginning on page 17, strike line 23 and all that follows, and insert in lieu thereof the following:

(1) be composed of 24 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Ten representatives from State and local governments comprised of—

(i) three representatives appointed by the Majority Leader of the Senate;

(ii) two representatives appointed by the Minority Leader of the Senate;

(iii) three representatives appointed by the Speaker of the House of Representatives; and

(iv) two representatives appointed by the Minority Leader of the House of Representatives.

(C) Ten representatives of the electronic industry and consumer groups comprised of—

(i) three representatives appointed by the Majority Leader of the Senate;

(ii) two representatives appointed by the Minority Leader of the Senate;

(iii) three representatives appointed by the Speaker of the House of Representatives; and

(iv) two representatives appointed by the Minority Leader of the House of Representatives.

(2) **APPOINTMENTS.**—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) **VACANCIES.**—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) **ACCEPTANCE OF GIFTS AND GRANTS.**—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) **OTHER RESOURCES.**—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) **SUNSET.**—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) **RULES OF THE COMMISSION.**—

(1) **QUORUM.**—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) **MEETINGS.**—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) **OPPORTUNITIES TO TESTIFY.**—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) **ADDITIONAL RULES.**—The Commission may adopt other rules as needed.

(g) **DUTIES OF THE COMMISSION.**—

(1) **IN GENERAL.**—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) **ISSUES TO BE STUDIED.**—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and

the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) **BIT TAX.**—The term “bit tax” means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) **DISCRIMINATORY TAX.**—The term “discriminatory tax” means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) **ELECTRONIC COMMERCE.**—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **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 predecessor or successor protocol, to transmit information.

(5) **INTERNET ACCESS.**—The term “Internet access” 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.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) **SALES OR USE TAX.**—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) **STATE.**—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) **EXCEPTION.**—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) **TELECOMMUNICATIONS SERVICES.**—The term “telecommunications services” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce;”;

and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce;”;

and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with;”;

(3) by adding at the end the following new subsection:

“(d) **ELECTRONIC COMMERCE.**—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.”.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the Americas, the North American Free Trade Agreement, and other appropriate venues.

(b) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic commerce” has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures."

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and

the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms "form", "questionnaire", and "survey" include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION**SEC. 201. SHORT TITLE.**

This title may be cited as the "Children's Online Privacy Protection Act of 1999".

SEC. 202. DEFINITIONS.

In this title:

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

(2) OPERATOR.—The term "operator"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

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

(ii) 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

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) 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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) 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 from that child; and

(iii) notwithstanding any other provision of law, 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; and

(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.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator’s further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, 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. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 293, 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

AMENDMENT NO. 3704

Beginning on page 17, strike line 19 and all that follows and insert in lieu thereof the following:

is established a commission (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 16 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) **ADDITIONAL RULES.**—The Commission may adopt other rules as needed.

(g) **DUTIES OF THE COMMISSION.**—

(1) **IN GENERAL.**—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) **ISSUES TO BE STUDIED.**—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) **BIT TAX.**—The term “bit tax” means any tax on electronic commerce expressly imposed on or measured by the volume of

digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) **DISCRIMINATORY TAX.**—The term “discriminatory tax” means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) **ELECTRONIC COMMERCE.**—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **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 predecessor or successor protocol, to transmit information.

(5) **INTERNET ACCESS.**—The term “Internet access” 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.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) **SALES OR USE TAX.**—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) **STATE.**—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) **EXCEPTION.**—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) **TELECOMMUNICATIONS SERVICES.**—The term “telecommunications services” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce,”; and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce,”; and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with,”; and

(3) by adding at the end the following new subsection:

“(d) **ELECTRONIC COMMERCE.**—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.”.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

- (A) tariff and nontariff barriers;
 - (B) burdensome and discriminatory regulation and standards; and
 - (C) discriminatory taxation; and
- (2) to accelerate the growth of electronic commerce by expanding market access opportunities for—
- (A) the development of telecommunications infrastructure;
 - (B) the procurement of telecommunications equipment;
 - (C) the provision of Internet access and telecommunications services; and
 - (D) the exchange of goods, services, and digitalized information.

(c) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic commerce” has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Government Paperwork Elimination Act.”

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

“(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.”

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and

the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) **EXECUTIVE AGENCY.**—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(2) **ELECTRONIC SIGNATURE.**—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person’s approval of the information contained in such electronic message.

(3) **FORM, QUESTIONNAIRE, OR SURVEY.**—The terms “form”, “questionnaire”, and “survey” include documents produced by an

agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Online Privacy Protection Act of 1999”.

SEC. 202. DEFINITIONS.

In this title:

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

(2) **OPERATOR.**—The term “operator”—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

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

(ii) 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

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) 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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) 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 from that child; and

(iii) notwithstanding any other provision of law, 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; and

(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.

(2) **WHEN CONSENT NOT REQUIRED.**—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) **TERMINATION OF SERVICE.**—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator’s further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) **ENFORCEMENT.**—Subject to sections 204 and 206, 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. 204. SAFE HARBORS.

(a) **GUIDELINES.**—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 293, 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations

initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

DORGAN AMENDMENTS NOS. 3705–3709

(Ordered to lie on the table.)

Mr. DORGAN submitted five amendments intended to be proposed by him to the bill, S. 442, *supra*; as follows:

AMENDMENT No. 3705

At the appropriate place, insert the following—

“Notwithstanding any other provision of law, nothing in this Act shall preempt any tax that was generally imposed and actually enforced prior to the date of enactment of this Act.”

AMENDMENT No. 3706

Beginning on page 16, strike line 22 through line 15 on page 17.

AMENDMENT No. 3707

Between lines 15 and 16 on page 17, insert the following—

(c) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Except as provided in this section, nothing in this Act shall be construed to modify, impair, or supersede or authorize the modification, impairment or supersession of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

(d) Liabilities and Pending Cases.—Nothing in this Act shall affect liabilities for taxes accrued and enforced prior to the date of enactment of this Act nor does this Act affect ongoing litigation relating to such assessments.

AMENDMENT No. 3708

After the word “entity” on page 29, line 25, insert the following: “for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred”.

AMENDMENT No. 3709

Between lines 6 and 7 on page 25, add the following:

(3) EFFECT ON THE COMMUNICATIONS ACT OF 1934.—Nothing in this section shall include an examination of any fees or charges imposed by the Federal Communications Commission related to—

(A) obligations under the Communications Act of 1934 (47 U.S.C.); or

(B) the implementation of the Telecommunications Act of 1996 or amendments made by such Act .

**MCCAIN (AND WYDEN)
AMENDMENTS NOS. 3710-3719**

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. WYDEN) submitted 10 amendments to be proposed by them to the bill, S. 442, supra; as follows:

AMENDMENT No. 3710

On page 28, line 6, strike "consumers." and insert "users."

AMENDMENT No. 3711

On page 26, beginning with line 3, strike through line 5 on page 27 and insert the following:

(2) **DISCRIMINATORY TAX.**—The term "discriminatory tax" means—

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(iv) imposes the obligation to collect or pay the tax on any provider of products or services made available and obtained digitally where the location, business, or residence address of the recipient is not provided as part of the transaction or otherwise is unknown to the provider; or

(v) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if

(i) the ability to access a site on a remote seller's out-of-State computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations as a result of—

(I) the display of a remote seller's information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

AMENDMENT No. 3712

On page 27, strike lines 14 through 23, and insert the following:

(4) **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.

AMENDMENT No. 3713

On page 22, line 25, strike "interstate" and insert "electronic".

AMENDMENT No. 3714

On page 17, line 2, strike "2" and insert "5".

AMENDMENT No. 3715

On page 17, line 2, strike "2" and insert "6".

AMENDMENT No. 3716

On page 17, line 2, strike "2" and insert "4".

AMENDMENT No. 3717

At the end of the bill, add the following:

SEC. . SEVERABILITY.

If any provision of this Act, or any amendment made by this Act, or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.

AMENDMENT No. 3718

On page 29, beginning with line 20, strike through line 19 on page 30 and insert the following:

(8) TAX.—

(A) **IN GENERAL.**—The term "tax" means—

(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

(B) **EXCEPTION.**—Such term does not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 572, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(9) **TELECOMMUNICATIONS SERVICE.**—The term "telecommunications service" has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

(10) **TAX ON INTERNET ACCESS.**—The term "tax on Internet access" means a tax on Internet access, including the enforcement or application of any new or preexisting tax on the sale or use of Internet services.

AMENDMENT No. 3719

On page 16, beginning with line 23, strike through line 15 on page 17, and insert the following:

(a) **MORATORIUM.**—No State or political subdivision thereof shall impose any of the following taxes during the period beginning on July 29, 1998, and ending 3 years after the date of the enactment of this Act:

(1) Taxes on Internet access, unless such tax was generally imposed and actually enforced prior to October 1, 1998; and

(2) Multiple or discriminatory taxes on electronic commerce.

(b) **PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.**—Except as provided in this section, nothing in this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or su-

perseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

(c) **LIABILITIES AND PENDING CASES.**—Nothing in this Act affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this Act affect ongoing litigation relating to such taxes.

MCCAIN AMENDMENT NO. 3720

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill, S. 442, supra; as follows:

On page 16, beginning with line 23, strike through line 15 on page 17, and insert the following:

(a) **MORATORIUM.**—No State or political subdivision thereof shall impose any of the following taxes during the period beginning on July 29, 1998, and ending 3 years after the date of the enactment of this Act:

(1) Taxes on Internet access, unless such tax was generally imposed, assessed or actually enforced prior to October 1, 1998; and

(2) Multiple or discriminatory taxes on electronic commerce.

(b) **PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.**—Except as provided in this section, nothing in this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

(c) **LIABILITIES AND PENDING CASES.**—Nothing in this Act affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this Act affect ongoing litigation relating to such taxes.

**MCCAIN (AND WYDEN)
AMENDMENT NO. 3721**

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. WYDEN) submitted an amendment to be proposed by them to the bill, S. 442, supra; as follows:

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) **ESTABLISHMENT OF COMMISSION.**—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the "Commission"). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) **IN GENERAL.**—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax).

(C) 8 representatives of the electronic commerce industry, telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;
 (ii) 3 individuals appointed by the Minority Leader of the Senate;
 (iii) 5 individuals appointed by the Speaker of the House of Representatives; and
 (iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

MCCAIN AMENDMENTS NOS. 3722–3723

(Ordered to lie on the table.)

Mr. MCCAIN submitted two amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3722

On page 23, beginning with line 14, strike through line 2 on page 25 and insert the following:

“(D) an examination of model State legislation that—

“(i) would provide uniform definitions of categories of property, goods, service, or information subject to or exempt from sales and use taxes; and

“(ii) would ensure that Internet access services, online services, and communications and transactions using the Internet, Internet access service, or online services would be treated in a tax and technologically neutral manner relative to other forms of remote sales; and”.

AMENDMENT NO. 3723

On page 25, between lines 6 and 7, insert the following:

(3) EFFECT ON THE COMMUNICATIONS ACT OF 1934.—Nothing in this section shall include an examination of any fees or charges imposed by the Federal Communications Commission or States related to—

(A) obligations under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(B) the implementation of the Telecommunications Act of 1996 (or of amendments made by that Act.)

(h) NATIONAL COMMISSION ON UNIFORM STATE LEGISLATION.—The Commission shall, to the extent possible, ensure that its work does not undermine the efforts of the National Commission on Uniform State Legislation.

GRAMM AMENDMENT NO. 3742

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill, S. 442, supra; as follows:

Beginning on page 17, strike line 20 and all that follows and insert in lieu thereof the following:

Commission on Electronic Commerce (in this title referred to as the “Commission”). The Commission shall—

(1) be composed of 16 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or infor-

mation in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term “bit tax” means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term “discriminatory tax” means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) **ELECTRONIC COMMERCE.**—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **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 predecessor or successor protocol, to transmit information.

(5) **INTERNET ACCESS.**—The term “Internet access” 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.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) **SALES OR USE TAX.**—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) **STATE.**—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) **TAX.**—

(A) **IN GENERAL.**—The term “tax” means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) **EXCEPTION.**—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) **TELECOMMUNICATIONS SERVICES.**—The term “telecommunications services” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce;”

and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce;” and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with;” and

(3) by adding at the end the following new subsection:

“(d) **ELECTRONIC COMMERCE.**—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.”

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the Americas, the North American Free Trade Agreement, and other appropriate venues.

(b) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic com-

merce” has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104-104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Government Paperwork Elimination Act.”

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

“(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.”

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall

develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

- (1) it involves the administration of the internal revenue laws; and
- (2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person’s approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms “form”, “questionnaire”, and “survey” include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Online Privacy Protection Act of 1999”.

SEC. 202. DEFINITIONS.

In this title:

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

(2) OPERATOR.—The term “operator”—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is col-

lected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

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

(ii) 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

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) 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) LEGAL GUARDIAN.—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 contracting 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. 203. 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 under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) 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 from that child; and

(iii) notwithstanding any other provision of law, 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; and

(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.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that 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;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on 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; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service pro-

vided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, 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. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(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 203, 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 203 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 203.

(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. 205. 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 203(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 293, 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. 206. 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 203 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 the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, 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. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 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 204 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.

HUTCHINSON AMENDMENTS NOS. 3725–3726

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted two amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT No. 3725

On page 25, strike line 6 and insert the following:

communications services; and

(F) an examination of the effects of taxation, including the absence of taxation, on all remote sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments.

AMENDMENT No. 3726

On page 25, strike line 6 and insert the following:

communications services; and

(F) an examination of the effects of taxation, including the absence of taxation, on all remote sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owned on in-State purchases from out-of-State sellers.

ENZI AMENDMENTS NOS. 3727–3728

(Ordered to lie on the table.)

Mr. ENZI submitted two amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT No. 3727

On page 25, beginning on line 10, strike “a report reflecting the results” and insert the following: “for its consideration a report reflecting the results, including such legislative recommendations as required to address the findings”.

AMENDMENT No. 3728

On page 17, line 16, before sec. 102, insert the following:

(c) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Except as provided in this section, nothing in this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

(d) LIABILITIES AND PENDING CASES.—Nothing in this Act affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this Act affect ongoing litigation relating to such taxes.

GRAHAM AMENDMENTS NOS. 3729–3734

(Ordered to lie on the table.)

Mr. GRAHAM submitted six amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT No. 3729

On page 17, between lines 15 and 16, insert:

(c) POINT OF ORDER.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report if such bill, resolution, amendment, or conference report would extend the moratorium under subsection (a). This point of order may only be waived or suspended by a vote of three-fifths of the Members, duly chosen and sworn.

AMENDMENT No. 3730

On page 18, lines 12 and 13, strike “the Secretary of State.”.

AMENDMENT No. 3731

On page 30, between lines 19 and 20, insert: (10) REMOTE COMMERCE.—The term “remote commerce” means the sale, lease, license, offer, or delivery of property, goods, services, or information by a seller in 1 State to a purchaser in another State.

AMENDMENT No. 3732

On page 22, line 2, strike “interstate” and insert “intrastate, interstate”.

AMENDMENT No. 3733

On page 25, line 12, insert “Any recommendation agreed to by the Commission shall be tax and technologically neutral and apply to all forms of remote commerce.” after “this title.”.

AMENDMENT No. 3734

Beginning on page 18, line 17, strike all through page 19, line 21, and insert:

(B) Eight representatives from State and local governments (1 of whom shall be from a State or local government that does not impose a sales tax) and 8 representatives of the electronic commerce industry, telecommunications carriers, local retail businesses, and consumer groups, comprised of—

- (i) five representatives appointed by the Majority Leader of the Senate;
- (ii) three representatives appointed by the Minority Leader of the Senate;
- (iii) five representatives appointed by the Speaker of the House of Representatives; and
- (iv) three representatives appointed by the Minority Leader of the House of Representatives.

BRYAN AMENDMENT NO. 3735

(Ordered to lie on the table.)

Mr. BRYAN submitted an amendment intended to be proposed by him to the bill, S. 442, supra; as follows:

In section 208(2) of title II of the bill, as added by amendment, insert “filed” after “application” the first place it appears.

MCCAIN (AND WYDEN) AMENDMENTS NOS. 3736–3737

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. WYDEN) submitted two amendments intended to be proposed by them to the bill, S. 442, supra; as follows:

AMENDMENT No. 3736

On page 2, after line 25, insert the following:

(11) TAX THAT WAS GENERALLY IMPOSED AND ACTUALLY ENFORCED.—The term “tax that was generally imposed and actually enforced” means a tax—

(A) that was authorized by statute prior to October 1, 1998; and

(B) with respect to which the appropriate state administrative agency provided clear

notice that the tax was being interpreted to apply to Internet access services and which provided the taxable entity with a reasonable opportunity to be aware that such tax would apply to them, such as a rule or a public proclamation by such State administrative agency or a public disclosure by such agency of the fact that the State in question had previously assessed such a tax or was applying its tax to charges for Internet access.

AMENDMENT NO. 3737

On page 3, after line 23, insert the following:

(2A) TAX THAT WAS GENERALLY IMPOSED AND ACTUALLY ENFORCED.—The term “tax that was generally imposed and actually enforced” means a tax—

(A) that was authorized by statute prior to October 1, 1998; and

(B) with respect to which the appropriate state administrative agency provided clear notice that the tax was being interpreted to apply to Internet access services and which provided the taxable entity with a reasonable opportunity to be aware that such tax would apply to them, such as a rule or a public proclamation by such State administrative agency or a public disclosure by such agency of the fact that the State in question had previously assessed such a tax or was applying its tax to charges for Internet access.

VETERANS EMPLOYMENT
OPPORTUNITIES ACT OF 1998

SPECTER AMENDMENT NO. 3738

Mr. GRAMS (for Mr. SPECTER) proposed an amendment to the bill (S. 1021) to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes; as follows:

On page 31, between lines 3 and 4, insert the following:

SEC. 2. ACCESS FOR VETERANS.

Section 3304 of title 5, United States Code, is amended by adding at the end the following:

“(f)(1) Preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

“(2) This subsection shall not be construed to confer an entitlement to veterans’ preference that is not otherwise required by law.

“(3) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

“(4) The Office of Personnel and Management shall establish an appointing authority to appoint such preference eligibles and veterans.”

On page 31, line 4, strike out “**SEC. 2.**” and insert in lieu thereof “**SEC. 3.**”

On page 36, line 14, strike out “**SEC. 3.**” and insert in lieu thereof “**SEC. 4.**”

On page 43, line 4, strike out “**SEC. 4.**” and insert in lieu thereof “**SEC. 5.**”

On page 43, line 17, strike out “**SEC. 5.**” and insert in lieu thereof “**SEC. 6.**”

On page 46, line 18, strike out “**SEC. 6.**” and insert in lieu thereof “**SEC. 7.**”

On page 46, strike out line 23 and all that follows through page 47, line 20, and insert in lieu thereof the following:

(1) in subsection (a)—

(A) by striking out “\$10,000” and inserting in lieu thereof “\$25,000”; and

(B) by striking out “special disabled veterans and veterans of the Vietnam era” and inserting in lieu thereof “special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized”;

(2) in subsection (b), by striking out “special disabled veteran or veteran of the Vietnam era” and inserting in lieu thereof “veteran covered by the first sentence of subsection (a)”;

(3) in subsection (d)(1), by striking out “veterans of the Vietnam era or special disabled veterans” both places it appears and inserting in lieu thereof “special disabled veterans, veterans of the Vietnam era, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized”.

On page 48, strike out lines 15 through 17 and insert in lieu thereof the following:

“(b) The Secretary of Labor shall make available in a database a list of the contractors that have complied with the provisions of such section 4212(d).”

On page 49, line 1, strike out “**SEC. 7.**” and insert in lieu thereof “**SEC. 8.**”

On page 49, line 5, strike out “(a)(3)” and insert in lieu thereof “section 7(a)(3) of this Act”.

BORDER SMOG REDUCTION ACT OF
1998

CHAFEE AMENDMENT NO. 3739

Mr. GRAMS (for Mr. CHAFEE) proposed an amendment to the bill (H.R. 8) to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicles emissions, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Border Smog Reduction Act of 1998”.

SEC. 2. AMENDMENT OF CLEAN AIR ACT.

Section 183 of the Clean Air Act (42 U.S.C. 7511b) is amended by adding at the end the following:

“(h) VEHICLES ENTERING OZONE NONATTAINMENT AREAS.—

“(1) AUTHORITY REGARDING OZONE INSPECTION AND MAINTENANCE TESTING.—

“(A) IN GENERAL.—No noncommercial motor vehicle registered in a foreign country and operated by a United States citizen or by an alien who is a permanent resident of the United States, or who holds a visa for the purposes of employment or educational study in the United States, may enter a covered ozone nonattainment area from a foreign country bordering the United States and contiguous to the nonattainment area more than twice in a single calendar-month period, if State law has requirements for the inspection and maintenance of such vehicles under the applicable implementation plan in the nonattainment area.

“(B) APPLICABILITY.—Subparagraph (A) shall not apply if the operator presents documentation at the United States border entry point establishing that the vehicle has complied with such inspection and maintenance requirements as are in effect and are applica-

ble to motor vehicles of the same type and model year.

“(2) SANCTIONS FOR VIOLATIONS.—The President may impose and collect from the operator of any motor vehicle who violates, or attempts to violate, paragraph (1) a civil penalty of not more than \$200 for the second violation or attempted violation and \$400 for the third and each subsequent violation or attempted violation.

“(3) STATE ELECTION.—The prohibition set forth in paragraph (1) shall not apply in any State that elects to be exempt from the prohibition. Such an election shall take effect upon the President’s receipt of written notice from the Governor of the State notifying the President of such election.

“(4) ALTERNATIVE APPROACH.—The prohibition set forth in paragraph (1) shall not apply in a State, and the President may implement an alternative approach, if—

“(A) the Governor of the State submits to the President a written description of an alternative approach to facilitate the compliance, by some or all foreign-registered motor vehicles, with the motor vehicle inspection and maintenance requirements that are—

“(i) related to emissions of air pollutants;

“(ii) in effect under the applicable implementation plan in the covered ozone nonattainment area; and

“(iii) applicable to motor vehicles of the same types and model years as the foreign-registered motor vehicles; and

“(B) the President approves the alternative approach as facilitating compliance with the motor vehicle inspection and maintenance requirements referred to in subparagraph (A).

“(5) DEFINITION OF COVERED OZONE NON-ATTAINMENT AREA.—In this section, the term ‘covered ozone nonattainment area’ means a Serious Area, as classified under section 181 as of the date of enactment of this subsection.”

SEC. 3. GENERAL PROVISIONS.

(a) IN GENERAL.—The amendment made by section 2 takes effect 180 days after the date of enactment of this Act. Nothing in that amendment shall require action that is inconsistent with the obligations of the United States under any international agreement.

(b) INFORMATION.—As soon as practicable after the date of enactment of this Act, the appropriate agency of the United States shall distribute information to publicize the prohibition set forth in the amendment made by section 2.

SEC. 4. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the impact of the amendment made by section 2.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall compare—

(1) the potential impact of the amendment made by section 2 on air quality in ozone nonattainment areas affected by the amendment; with

(2) the impact on air quality in those areas caused by the increase in the number of vehicles engaged in commerce operating in the United States and registered in, or operated from, Mexico, as a result of the implementation of the North American Free Trade Agreement.

(c) REPORT.—Not later than July 1, 1999, the Comptroller General of the United States shall submit to the Committee on Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the findings of the study under subsection (a).