

119TH CONGRESS
1ST SESSION

S. _____

To direct the Federal Trade Commission to prescribe rules prohibiting the marketing of firearms to minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself, Mr. MURPHY, Mr. SCHUMER, Mr. DURBIN, Ms. WARREN, Mr. PADILLA, Mr. REED, Mr. KAINE, Mr. HEINRICH, Mr. BOOKER, Mr. WHITEHOUSE, Mr. WELCH, Mr. BLUMENTHAL, Ms. HIRONO, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To direct the Federal Trade Commission to prescribe rules prohibiting the marketing of firearms to minors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Kids from
5 Gun Marketing Act”.

6 **SEC. 2. PROHIBITION OF MARKETING FIREARMS TO MI-**
7 **NORS.**

8 (a) CONDUCT PROHIBITED.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this Act, the Commission
3 shall, in accordance with section 553 of title 5,
4 United States Code, promulgate rules to prohibit
5 any manufacturer, dealer, or importer, or agent
6 thereof, from marketing or advertising a firearm or
7 any firearm-related product to a minor in a manner
8 that is designed, intended, or reasonably appears to
9 be attractive to a minor.

10 (2) CONSIDERATIONS.—In determining whether
11 any marketing or advertising reasonably appears to
12 be attractive to a minor for purposes of paragraph
13 (1), the Commission shall consider the totality of the
14 circumstances, including whether such marketing or
15 advertising does any of the following:

16 (A) Uses any cartoon character, any cari-
17 cature, or any meme that reasonably appears to
18 be a minor, or intended to appeal to minors, to
19 promote any firearm or firearm-related product.

20 (B) Offers to minors any brand name mer-
21 chandise of a manufacturer, dealer, or importer
22 (including any hat, T-shirt, other clothing, toy,
23 game, or stuffed animal) that promotes a fire-
24 arm or firearm-related product.

1 (C) Offers any firearm or firearm-related
2 product with features, sizes, or designs that are
3 specifically designed to be used by, or appeal to,
4 minors.

5 (D) Uses any image or depiction of a
6 minor to depict the use or handling of a firearm
7 or firearm-related product.

8 (E) Is intended to reach an audience that
9 is predominately composed of minors and not
10 intended for a more general audience composed
11 of adults.

12 (F) Offers any firearm or firearm-related
13 product as a gift to a minor in order to promote
14 or advertise any firearm or firearm-related
15 product of a manufacturer, dealer, or importer.

16 (G) Promotes the contracts of the manu-
17 facturer, dealer, or importer with the Federal
18 Government or United States Armed Forces to
19 imply an affiliation or endorsement of the man-
20 ufacturer, dealer, or importer's firearms or fire-
21 arm-related products.

22 (b) ENFORCEMENT.—

23 (1) ENFORCEMENT BY THE COMMISSION.—

24 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-
25 TICES.—A violation of a rule promulgated

1 under subsection (a) shall be treated as a viola-
2 tion of a rule defining an unfair or deceptive
3 act or practice under section 18(a)(1)(B) of the
4 Federal Trade Commission Act (15 U.S.C.
5 57a(a)(1)(B)).

6 (B) POWERS OF THE COMMISSION.—

7 (i) IN GENERAL.—The Commission
8 shall enforce the rules promulgated under
9 subsection (a) in the same manner, by the
10 same means, and with the same jurisdic-
11 tion, powers, and duties as though all ap-
12 plicable terms and provisions of the Fed-
13 eral Trade Commission Act (15 U.S.C. 41
14 et seq.) were incorporated into and made a
15 part of this Act.

16 (ii) PRIVILEGES AND IMMUNITIES.—
17 Any person who violates a rule promul-
18 gated under subsection (a) shall be subject
19 to the penalties and entitled to the privi-
20 leges and immunities provided in the Fed-
21 eral Trade Commission Act (15 U.S.C. 41
22 et seq.).

23 (iii) AUTHORITY PRESERVED.—Noth-
24 ing in this section shall be construed to

1 limit the authority of the Commission
2 under any other provision of law.

3 (iv) RULEMAKING.—The Commission
4 shall promulgate, in accordance with sec-
5 tion 553 of title 5, United States Code,
6 such rules as may be necessary to carry
7 out this section.

8 (2) ENFORCEMENT BY STATE ATTORNEYS GEN-
9 ERAL.—

10 (A) IN GENERAL.—

11 (i) CIVIL ACTIONS.—In any case in
12 which the attorney general of a State has
13 reason to believe that an interest of the
14 residents of that State has been or is
15 threatened or adversely affected by the en-
16 gagement of any person in an act or prac-
17 tice that violates a rule promulgated under
18 subsection (a), the State, as *parens*
19 *patriae*, may bring a civil action on behalf
20 of the residents of the State in a Federal
21 court of appropriate jurisdiction to—

22 (I) enjoin that act or practice;

23 (II) enforce compliance with such
24 rule;

1 (III) on behalf of residents of the
2 State, obtain damages, restitution, or
3 other compensation; or

4 (IV) obtain such other legal or
5 equitable relief as the court may con-
6 sider to be appropriate.

7 (ii) NOTICE.—

8 (I) IN GENERAL.—Before filing
9 an action under clause (i), the attor-
10 ney general of the State involved shall
11 provide to the Commission—

12 (aa) written notice of that
13 action; and

14 (bb) a copy of the complaint
15 for that action.

16 (II) EXEMPTION.—

17 (aa) IN GENERAL.—Sub-
18 clause (I) shall not apply with re-
19 spect to the filing of an action by
20 an attorney general of a State
21 under this subparagraph if the
22 attorney general of the State de-
23 termines that it is not feasible to
24 provide the notice described in

1 that subclause before the filing of
2 the action.

3 (bb) NOTIFICATION.—In an
4 action described in item (aa), the
5 attorney general of a State shall
6 provide notice and a copy of the
7 complaint to the Commission at
8 the same time as the attorney
9 general files the action.

10 (B) INTERVENTION.—

11 (i) IN GENERAL.—On receiving notice
12 under subparagraph (A)(ii), the Commis-
13 sion shall have the right to intervene in the
14 action that is the subject of the notice.

15 (ii) EFFECT OF INTERVENTION.—If
16 the Commission intervenes in an action
17 under clause (i), it shall have the right—

18 (I) to be heard with respect to
19 any matter that arises in that action;
20 and

21 (II) to file a petition for appeal.

22 (C) LIMITATION ON STATE ACTION WHILE
23 FEDERAL ACTION IS PENDING.—If the Commis-
24 sion has instituted a civil action for violation of
25 this Act, no State attorney general, or official

1 or agency of a State, may bring an action under
2 subparagraph (A) during the pendency of that
3 action against any defendant named in the com-
4 plaint of the Commission for any violation of
5 this Act alleged in the complaint.

6 (D) RULE OF CONSTRUCTION.—For pur-
7 poses of bringing a civil action under subpara-
8 graph (A), nothing in this Act shall be con-
9 strued to prevent an attorney general of a State
10 from exercising the powers conferred on the at-
11 torney general by the laws of that State to—

12 (i) conduct investigations;

13 (ii) administer oaths or affirmations;

14 or

15 (iii) compel the attendance of wit-
16 nesses or the production of documentary
17 and other evidence.

18 (3) PRIVATE RIGHT OF ACTION.—

19 (A) IN GENERAL.—Any individual alleging
20 a violation of a rule promulgated under sub-
21 section (a) may bring a civil action in any Fed-
22 eral court of competent jurisdiction.

23 (B) RELIEF.—In a civil action brought
24 under subparagraph (A) in which the plaintiff
25 prevails, the court may award—

- 1 (i) compensatory or punitive damages;
2 (ii) reasonable attorney's fees, reason-
3 able expert witness fees, and litigation
4 costs; and
5 (iii) any other relief, including equi-
6 table or declaratory relief, that the court
7 determines appropriate.

8 (C) INJURY IN FACT.—Any individual in-
9 jured as the foreseeable consequence of a viola-
10 tion of a rule promulgated under subsection (a)
11 constitutes a concrete and particularized injury
12 in fact to that individual.

13 (c) REPORTS.—

14 (1) REPORT ON PLAN FOR ENFORCEMENT;
15 BUSINESS AND CONSUMER EDUCATION.—Not later
16 than 60 days after the date on which the Commis-
17 sion issues a final rule under subsection (a)(1), the
18 Commission shall—

19 (A) submit to Congress a report detailing
20 a plan to enforce such rule (but not including
21 any information on the investigative techniques
22 of the Commission); and

23 (B) issue business and consumer education
24 about this Act and such rule in order to inform

1 the marketplace about how to comply with such
2 rule.

3 (2) BIENNIAL REPORT.—Beginning on the date
4 that is 1 year after the date of enactment of this
5 Act, and biennially thereafter, the Commission shall
6 submit to Congress a report that includes, with re-
7 spect to the previous year, a description of—

8 (A) any enforcement action taken by the
9 Commission under this Act or a rule promul-
10 gated thereunder; and

11 (B) the outcome of any such action.

12 (d) SEVERABILITY.—If any provision of this Act is
13 determined to be unenforceable or invalid, the remaining
14 provisions of this Act shall not be affected.

15 (e) DEFINITIONS.—In this Act:

16 (1) COMMISSION.—The term “Commission”
17 means the Federal Trade Commission.

18 (2) DEALER; FIREARM; IMPORTER; MANUFAC-
19 TURER.—The terms “dealer”, “firearm”, “im-
20 porter”, and “manufacturer” have the meaning
21 given those terms in section 921 of title 18, United
22 States Code.

23 (3) FIREARM ACCESSORY.—The term “firearm
24 accessory” means an attachment or device designed
25 or adapted to be inserted into, affixed onto, or used

1 in conjunction with, a firearm which is designed, in-
2 tended, or functions to alter or enhance the firing
3 capabilities of the firearm, the lethality of the fire-
4 arm, or a shooter's ability to hold, carry, or use the
5 firearm.

6 (4) FIREARM-RELATED PRODUCT.—The term
7 “firearm-related product” means a firearm, ammu-
8 nition, reloaded ammunition, a firearm precursor
9 part, a firearm component, or a firearm accessory.

10 (5) MINOR.—The term “minor” means an indi-
11 vidual that is less than 18 years of age.