

115TH CONGRESS
2D SESSION

S. _____

To strengthen protections relating to the online collection, use, and disclosure of personal information of children and minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To strengthen protections relating to the online collection, use, and disclosure of personal information of children and 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Do Not Track Kids Act of 2018”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Online collection, use, and disclosure of personal information of children and minors.

Sec. 4. Fair Information Practices Principles.

- Sec. 5. Digital Marketing Bill of Rights for Minors.
 Sec. 6. Targeted marketing to children or minors.
 Sec. 7. Removal of content.
 Sec. 8. Privacy dashboard for connected devices for children and minors.
 Sec. 9. Prohibition on sale of connected devices for children and minors that fail to meet appropriate cybersecurity and data security standards.
 Sec. 10. Rule for treatment of users of websites, services, and applications directed to children or minors.
 Sec. 11. Enforcement and applicability.
 Sec. 12. Effective dates.

1 **SEC. 2. DEFINITIONS.**

2 (a) IN GENERAL.—In this Act:

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

5 (2) STANDARDS.—The term “standards” means
 6 benchmarks, guidelines, best practices, methodolo-
 7 gies, procedures, and processes.

8 (b) OTHER DEFINITIONS.—The definitions set forth
 9 in section 1302 of the Children’s Online Privacy Protec-
 10 tion Act of 1998 (15 U.S.C. 6501), as amended by section
 11 3(a) of this Act, shall apply in this Act, except to the ex-
 12 tent the Commission provides otherwise by regulations
 13 issued under section 553 of title 5, United States Code.

14 **SEC. 3. ONLINE COLLECTION, USE, AND DISCLOSURE OF**
 15 **PERSONAL INFORMATION OF CHILDREN AND**
 16 **MINORS.**

17 (a) DEFINITIONS.—Section 1302 of the Children’s
 18 Online Privacy Protection Act of 1998 (15 U.S.C. 6501)
 19 is amended—

1 “(ii) does not disclose or use that per-
2 sonal information for any other purpose;
3 and”; and

4 (B) in subparagraph (B)—

5 (i) by inserting “or minor” after
6 “child” each place the term appears;

7 (ii) by inserting “or minors” after
8 “children”; and

9 (iii) by striking “website or online
10 service” and inserting “website, online
11 service, online application, or mobile appli-
12 cation”;

13 (3) in paragraph (8)—

14 (A) by amending subparagraph (G) to read
15 as follows:

16 “(G) information concerning a child or
17 minor or the parents of that child or minor (in-
18 cluding any unique or substantially unique iden-
19 tifier, such as a customer number) that an op-
20 erator collects online from the child or minor
21 and combines with an identifier described in
22 subparagraphs (A) through (G).”;

23 (B) by redesignating subparagraphs (F)
24 and (G) as subparagraphs (H) and (I), respec-
25 tively; and

1 (C) by inserting after subparagraph (E)
2 the following:

3 “(F) information (including an Internet
4 protocol address) that permits the identification
5 of—

6 “(i) an individual;

7 “(ii) a computer of an individual; or

8 “(iii) any other device used by an in-
9 dividual to access the Internet or an online
10 service, online application, or mobile appli-
11 cation;

12 “(G) geolocation information;”;

13 (4) by amending paragraph (9) to read as fol-
14 lows:

15 “(9) VERIFIABLE CONSENT.—The term
16 ‘verifiable consent’ means any reasonable effort (tak-
17 ing into consideration available technology), includ-
18 ing a request for authorization for future collection,
19 use, and disclosure described in the notice, to ensure
20 that, in the case of a child, a parent of the child,
21 or, in the case of a minor, the minor—

22 “(A) receives notice of the personal infor-
23 mation collection, use, and disclosure practices
24 of the operator; and

1 “(B) before the personal information of the
2 child or minor is collected, authorizes—

3 “(i) the collection, use, and disclosure,
4 as applicable, of that personal information;
5 and

6 “(ii) any subsequent use of that per-
7 sonal information.”;

8 (5) by striking paragraph (10) and redesignig-
9 nating paragraphs (11) and (12) as paragraphs (10)
10 and (11), respectively; and

11 (6) by adding at the end the following:

12 “(12) CONNECTED DEVICE.—The term ‘con-
13 nected device’ means a device that is—

14 “(A) capable of connecting to the Internet,
15 directly or indirectly, or to another connected
16 device; and

17 “(B) directed towards a child or minor.

18 “(13) ONLINE; ONLINE APPLICATION; ONLINE
19 SERVICE; DIRECTED TO A CHILD; DIRECTED TO A
20 MINOR; MOBILE APPLICATION.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graphs (C) and (D), the terms ‘online’, ‘online
23 application’, ‘online service’, ‘directed to a
24 child’, ‘directed to a minor’, and ‘mobile appli-
25 cation’ shall have the meanings given those

1 terms by regulation promulgated by the Com-
2 mission under subparagraph (B).

3 “(B) PROMULGATION OF REGULATIONS.—
4 Not later than 1 year after the date of the en-
5 actment of the Do Not Track Kids Act of 2018,
6 the Commission shall promulgate, under section
7 553 of title 5, United States Code, regulations
8 that define the terms described in subparagraph
9 (A) broadly enough to ensure that the terms
10 are not limited to current technology, consistent
11 with—

12 “(i) the principles articulated by the
13 Commission regarding the definition of the
14 term ‘Internet’ in the statement of basis
15 and purpose on the final rule under this
16 title promulgated on November 3, 1999
17 (64 Fed. Reg. 59891); and

18 “(ii) the principles articulated by the
19 Commission regarding the definition of the
20 term ‘directed to children’ in the statement
21 of basis and purpose on the final rule
22 under this title promulgated on January
23 17, 2013 (78 Fed. Reg. 3972).

24 “(C) ONLINE SERVICE.—The definition of
25 the term ‘online service’ in the regulations pro-

1 mulgated under subparagraph (B) shall include
2 broadband Internet access service (as defined in
3 the Report and Order on Remand, Declaratory
4 Ruling, and Order in the matter of protecting
5 and promoting the open Internet, adopted by
6 the Federal Communications Commission on
7 February 26, 2015 (FCC 15–24)).

8 “(D) ONLINE APPLICATION; ONLINE SERV-
9 ICE; MOBILE APPLICATION.—The terms ‘online
10 service’, ‘online application’, and ‘mobile appli-
11 cation’ include a service or application offered
12 via a connected device.

13 “(14) GEOLOCATION INFORMATION.—The term
14 ‘geolocation information’ means information suffi-
15 cient to identify a street name and name of a city
16 or town.

17 “(15) MINOR.—The term ‘minor’ means an in-
18 dividual over the age of 12 and under the age of 16.

19 “(16) TARGETED MARKETING.—The term ‘tar-
20 geted marketing’ means advertising or any other ef-
21 fort to market a product or service that is directed
22 to a specific individual or device—

23 “(A) based on the personal information of
24 the individual or a unique identifier of the de-
25 vice; and

1 “(B) as a result of use by the individual,
2 or access by the device, of—

3 “(i) a website;

4 “(ii) an online service;

5 “(iii) an online application; or

6 “(iv) a mobile application.”.

7 (b) **ONLINE COLLECTION, USE, AND DISCLOSURE OF**
8 **PERSONAL INFORMATION OF CHILDREN AND MINORS.—**
9 Section 1303 of the Children’s Online Privacy Protection
10 Act of 1998 (15 U.S.C. 6502) is amended—

11 (1) by striking the heading and inserting the
12 following: “**ONLINE COLLECTION, USE, AND DIS-**
13 **CLOSURE OF PERSONAL INFORMATION OF**
14 **CHILDREN AND MINORS.**”;

15 (2) in subsection (a)—

16 (A) by amending paragraph (1) to read as
17 follows:

18 “(1) **IN GENERAL.—**It is unlawful for an oper-
19 ator of a website, online service, online application,
20 or mobile application directed to a child or minor, or
21 an operator having actual knowledge that personal
22 information being collected is from a child or minor,
23 to collect personal information from a child or minor
24 in a manner that violates the regulations prescribed
25 under subsection (b).”; and

1 (B) in paragraph (2)—

2 (i) by striking “of such a website or
3 online service”; and

4 (ii) by striking “subsection
5 (b)(1)(B)(iii) to the parent of a child” and
6 inserting “subsection (b)(1)(C)(iii) to the
7 parent of a child or under subsection
8 (b)(1)(D)(iii) to a minor”; and

9 (3) in subsection (b)—

10 (A) by amending paragraph (1) to read as
11 follows:

12 “(1) IN GENERAL.—Not later than 1 year after
13 the date of the enactment of the Do Not Track Kids
14 Act of 2018, the Commission shall promulgate,
15 under section 553 of title 5, United States Code,
16 regulations to require an operator of a website, on-
17 line service, online application, or mobile application
18 directed to children or minors, or an operator having
19 actual knowledge that personal information being
20 collected is from a child or minor—

21 “(A) to provide clear and conspicuous no-
22 tice in clear and plain language of—

23 “(i) the types of personal information
24 the operator collects;

1 “(iii) a means that is reasonable
2 under the circumstances for the parent to
3 obtain any personal information collected
4 from the child, if such information is avail-
5 able to the operator at the time the parent
6 makes the request;

7 “(D) to provide to a minor who has pro-
8 vided personal information to the operator,
9 upon request by and proper identification of the
10 minor—

11 “(i) a description of the specific types
12 of personal information collected from the
13 minor by the operator;

14 “(ii) the opportunity at any time to
15 refuse to permit the further use or mainte-
16 nance in retrievable form, or future collec-
17 tion, by the operator of personal informa-
18 tion collected from the minor; and

19 “(iii) a means that is reasonable
20 under the circumstances for the minor to
21 obtain any personal information collected
22 from the minor, if such information is
23 available to the operator at the time the
24 minor makes the request;

1 “(E) not to condition participation in a
2 game, or use of a website, service, or applica-
3 tion, by a child or minor on the provision by the
4 child or minor of more personal information
5 than is reasonably required to participate in the
6 game or use the website, service, or application;
7 and

8 “(F) to establish and maintain reasonable
9 procedures to protect the confidentiality, secu-
10 rity, and integrity of personal information col-
11 lected from children and minors.”;

12 (B) in paragraph (2)—

13 (i) in the matter preceding subpara-
14 graph (A), by striking “verifiable parental
15 consent under paragraph (1)(A)(ii)” and
16 inserting “verifiable consent under para-
17 graph (1)(B)”;

18 (ii) in subparagraph (A)—

19 (I) by inserting “or minor” after
20 “collected from a child”;

21 (II) by inserting “or minor” after
22 “request from the child”; and

23 (III) by inserting “or minor or to
24 contact a different child or minor”
25 after “to recontact the child”;

1 (iii) in subparagraph (B)—

2 (I) by striking “parent or child”
3 and inserting “parent, child, or
4 minor”; and

5 (II) by striking “parental con-
6 sent” each place the term appears and
7 inserting “verifiable consent”;

8 (iv) in subparagraph (C)—

9 (I) in the matter preceding clause
10 (i), by inserting “or minor” after
11 “child” each place the term appears;

12 (II) in clause (i)—

13 (aa) by inserting “or minor”
14 after “child” each place the term
15 appears; and

16 (bb) by inserting “or minor,
17 as applicable,” after “parent”
18 each place the term appears; and

19 (III) in clause (ii)—

20 (aa) by inserting “or minor,
21 as applicable,” after “parent”;
22 and

23 (bb) by inserting “or minor”
24 after “child” each place the term
25 appears; and

- 1 (v) in subparagraph (D)—
- 2 (I) in the matter preceding clause
- 3 (i), by inserting “or minor” after
- 4 “child” each place the term appears;
- 5 (II) in clause (ii), by inserting
- 6 “or minor” after “child”; and
- 7 (III) in the flush text following
- 8 clause (iii)—
- 9 (aa) by inserting “or minor,
- 10 as applicable,” after “parent”
- 11 each place the term appears; and
- 12 (bb) by inserting “or minor”
- 13 after “child”; and

14 (C) by amending paragraph (3) to read as

15 follows:

16 “(3) CONTINUATION OF SERVICE.—The regula-

17 tions shall prohibit an operator from discontinuing

18 service provided to a child or minor on the basis of

19 refusal by the parent of the child or by the minor,

20 under the regulations prescribed under subpara-

21 graphs (C)(ii) and (D)(ii) of paragraph (1), respec-

22 tively, to permit the further use or maintenance in

23 retrievable form, or future collection, by the operator

24 of personal information collected from the child or

1 minor, to the extent that the operator is capable of
2 providing such service without such information.”.

3 (c) SAFE HARBORS.—Section 1304 of the Children’s
4 Online Privacy Protection Act of 1998 (15 U.S.C. 6503)
5 is amended—

6 (1) in subsection (b)(1), by inserting “and mi-
7 nors” after “children”; and

8 (2) by adding at the end the following:

9 “(d) PUBLICATION.—The Commission shall publish
10 on the internet website of the Commission any report or
11 documentation required by regulation to be submitted to
12 the Commission to carry out this section, except to the
13 extent that the report or documentation contains propri-
14 etary information, which the Commission may in its dis-
15 cretion redact.”.

16 (d) ADMINISTRATION AND APPLICABILITY OF ACT.—
17 Section 1306 of the Children’s Online Privacy Protection
18 Act of 1998 (15 U.S.C. 6505) is amended—

19 (1) in subsection (b)—

20 (A) in paragraph (1), by striking “, in the
21 case of” and all that follows and inserting the
22 following: “by the appropriate Federal banking
23 agency, with respect to any insured depository
24 institution (as those terms are defined in sec-
25 tion 3 of that Act (12 U.S.C. 1813));”; and

1 (B) by striking paragraph (2) and redesignig-
2 nating paragraphs (3) through (6) as para-
3 graphs (2) through (5), respectively; and
4 (2) by adding at the end the following new sub-
5 section:

6 “(f) TELECOMMUNICATIONS CARRIERS AND CABLE
7 OPERATORS.—

8 “(1) ENFORCEMENT BY COMMISSION.—Not-
9 withstanding section 5(a)(2) of the Federal Trade
10 Commission Act (15 U.S.C. 45(a)(2)), compliance
11 with the requirements imposed under this title shall
12 be enforced by the Commission with respect to any
13 telecommunications carrier (as defined in section 3
14 of the Communications Act of 1934 (47 U.S.C.
15 153)).

16 “(2) RELATIONSHIP TO OTHER LAW.—To the
17 extent that section 222, 338(i), or 631 of the Com-
18 munications Act of 1934 (47 U.S.C. 222; 338(i);
19 551) is inconsistent with this title, this title con-
20 trols.”.

21 **SEC. 4. FAIR INFORMATION PRACTICES PRINCIPLES.**

22 The Fair Information Practices Principles described
23 in this section are the following:

24 (1) COLLECTION LIMITATION PRINCIPLE.—Ex-
25 cept as provided in paragraph (3), personal informa-

1 tion should be collected from a minor only when col-
2 lection of the personal information is—

3 (A) consistent with the context of a par-
4 ticular transaction or service or the relationship
5 of the minor with the operator, including collec-
6 tion necessary to fulfill a transaction or provide
7 a service requested by the minor; or

8 (B) required or specifically authorized by
9 law.

10 (2) DATA QUALITY PRINCIPLE.—The personal
11 information of a minor should be accurate, complete,
12 and kept up-to-date to the extent necessary to fulfill
13 the purposes described in subparagraphs (A)
14 through (D) of paragraph (3).

15 (3) PURPOSE SPECIFICATION PRINCIPLE.—The
16 purposes for which personal information is collected
17 should be specified to the minor not later than at
18 the time of the collection of the information. The
19 subsequent use or disclosure of the information
20 should be limited to—

21 (A) fulfillment of the transaction or service
22 requested by the minor;

23 (B) support for the internal operations of
24 the website, service, or application, as described
25 in section 312.2 of title 16, Code of Federal

1 Regulations, excluding any activity relating to
2 targeted marketing directed to children, minors,
3 or connected devices;

4 (C) compliance with legal process or other
5 purposes expressly authorized under specific
6 legal authority; or

7 (D) other purposes—

8 (i) that are specified in a notice to the
9 minor; and

10 (ii) to which the minor has consented
11 under paragraph (7) before the informa-
12 tion is used or disclosed for such other
13 purposes.

14 (4) RETENTION LIMITATION PRINCIPLE.—The
15 personal information of a minor should not be re-
16 tained for longer than is necessary to fulfill a trans-
17 action or provide a service requested by the minor
18 or such other purposes specified in subparagraphs
19 (A) through (D) of paragraph (3). The operator
20 should implement a reasonable and appropriate data
21 disposal policy based on the nature and sensitivity of
22 such personal information.

23 (5) SECURITY SAFEGUARDS PRINCIPLE.—The
24 personal information of a minor should be protected
25 by reasonable and appropriate security safeguards

1 against risks such as loss or unauthorized access,
2 destruction, use, modification, or disclosure.

3 (6) OPENNESS PRINCIPLE.—

4 (A) IN GENERAL.—The operator should
5 maintain a general policy of openness about de-
6 velopments, practices, and policies with respect
7 to the personal information of a minor. The op-
8 erator should provide each minor using the
9 website, online service, online application, or
10 mobile application of the operator with a clear
11 and prominent means—

12 (i) to identify and contact the oper-
13 ator, by, at a minimum, disclosing, clearly
14 and prominently, the identity of the oper-
15 ator and—

16 (I) in the case of an operator
17 who is an individual, the address of
18 the principal residence of the operator
19 and an email address and telephone
20 number for the operator; or

21 (II) in the case of any other op-
22 erator, the address of the principal
23 place of business of the operator and
24 an email address and telephone num-
25 ber for the operator;

1 (ii) to determine whether the operator
2 possesses any personal information of the
3 minor, the nature of any such information,
4 and the purposes for which the information
5 was collected and is being retained;

6 (iii) to obtain any personal informa-
7 tion of the minor that is in the possession
8 of the operator from the operator, or from
9 a person specified by the operator, within
10 a reasonable time after making a request,
11 at a charge (if any) that is not excessive,
12 in a reasonable manner, and in a form that
13 is readily intelligible to the minor;

14 (iv) to challenge the accuracy of per-
15 sonal information of the minor that is in
16 the possession of the operator; and

17 (v) if the minor establishes the inaccu-
18 racy of personal information in a challenge
19 under clause (iv), to have such information
20 erased, corrected, completed, or otherwise
21 amended.

22 (B) LIMITATION.—Nothing in this para-
23 graph shall be construed to permit an operator
24 to erase or otherwise modify personal informa-

1 tion requested by a law enforcement agency
2 pursuant to legal authority.

3 (7) INDIVIDUAL PARTICIPATION PRINCIPLE.—

4 The operator should—

5 (A) obtain consent from a minor before
6 using or disclosing the personal information of
7 the minor for any purpose other than the pur-
8 poses described in subparagraphs (A) through
9 (C) of paragraph (3); and

10 (B) obtain affirmative express consent
11 from a minor before using or disclosing pre-
12 viously collected personal information of the
13 minor for purposes that constitute a material
14 change in practice from the original purposes
15 specified to the minor under paragraph (3).

16 **SEC. 5. DIGITAL MARKETING BILL OF RIGHTS FOR MINORS.**

17 (a) ACTS PROHIBITED.—It is unlawful for an oper-
18 ator of a website, online service, online application, or mo-
19 bile application directed to minors, or an operator having
20 actual knowledge that personal information being collected
21 is from a minor, to collect personal information from a
22 minor unless such operator has adopted and complies with
23 a Digital Marketing Bill of Rights for Minors that is con-
24 sistent with the Fair Information Practices Principles de-
25 scribed in section 4.

1 (b) REGULATIONS.—Not later than 1 year after the
2 date of enactment of this Act, the Commission shall pro-
3 mulgate, under section 553 of title 5, United States Code,
4 regulations to implement this section, including regula-
5 tions further defining the Fair Information Practices
6 Principles described in section 4.

7 **SEC. 6. TARGETED MARKETING TO CHILDREN OR MINORS.**

8 (a) ACTS PROHIBITED.—It is unlawful for—

9 (1) an operator of a website, online service, on-
10 line application, mobile application, or connected de-
11 vice directed to children, or an operator having ac-
12 tual knowledge that personal information being col-
13 lected is from a child or a connected device of a
14 child, to use, disclose to third parties, or compile
15 personal information for purposes of targeted mar-
16 keting; or

17 (2) an operator of a website, online service, on-
18 line application, mobile application, or connected de-
19 vice directed to minors, or an operator having actual
20 knowledge that personal information being collected
21 is from a minor or a connected device of a minor,
22 to use, disclose to third parties, or compile personal
23 information for purposes of targeted marketing with-
24 out the verifiable consent of the minor.

1 (b) REGULATIONS.—Not later than 1 year after the
2 date of enactment of this Act, the Commission shall pro-
3 mulgate, under section 553 of title 5, United States Code,
4 regulations to implement this section.

5 **SEC. 7. REMOVAL OF CONTENT.**

6 (a) ACTS PROHIBITED.—It is unlawful for an oper-
7 ator to make publicly available through a website, online
8 service, online application, or mobile application content
9 or information that contains or displays personal informa-
10 tion of children or minors in a manner that violates a reg-
11 ulation prescribed under subsection (b).

12 (b) REGULATIONS.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this Act, the Commission
15 shall promulgate, under section 553 of title 5,
16 United States Code, regulations that require an op-
17 erator—

18 (A) to the extent technologically feasible,
19 to implement mechanisms that permit a user of
20 the website, online service, online application, or
21 mobile application of the operator to erase or
22 otherwise eliminate content or information that
23 is—

1 (i) submitted to the website, online
2 service, online application, or mobile appli-
3 cation by that user;

4 (ii) publicly available through the
5 website, online service, online application,
6 or mobile application; and

7 (iii) contains or displays personal in-
8 formation of children or minors; and

9 (B) to take appropriate steps to make
10 users aware of the mechanisms described in
11 subparagraph (A) and to provide notice to users
12 that the mechanisms do not necessarily provide
13 comprehensive removal of the content or infor-
14 mation submitted by users.

15 (2) EXCEPTION.—The regulations promulgated
16 under paragraph (1) may not require an operator or
17 third party to erase or otherwise eliminate content
18 or information that—

19 (A) any other provision of Federal or State
20 law requires the operator or third party to
21 maintain; or

22 (B) was submitted to the website, online
23 service, online application, or mobile application
24 of the operator by any person other than the
25 user who is attempting to erase or otherwise

1 eliminate the content or information, including
2 content or information submitted by the user
3 that was republished or resubmitted by another
4 person.

5 (3) LIMITATION.—Nothing in this section shall
6 be construed to limit the authority of a law enforce-
7 ment agency to obtain any content or information
8 from an operator as authorized by law or pursuant
9 to an order of a court of competent jurisdiction.

10 **SEC. 8. PRIVACY DASHBOARD FOR CONNECTED DEVICES**
11 **FOR CHILDREN AND MINORS.**

12 (a) IN GENERAL.—A manufacturer of a connected
13 device shall prominently display on the packaging for the
14 connected device a standardized and easy-to-understand
15 privacy dashboard, detailing whether, what, and how per-
16 sonal information of a child or minor is—

- 17 (1) collected from the connected device;
18 (2) transmitted from the connected device;
19 (3) retained on the connected device;
20 (4) retained by the manufacturer or affiliated
21 person;
22 (5) used by the manufacturer or affiliated per-
23 son; and
24 (6) protected.

1 (b) FEATURES.—A privacy dashboard under sub-
2 section (a) shall inform a consumer of—

3 (1) the extent to which the connected device
4 meets the highest cybersecurity and data security
5 standards, including if and how to obtain security
6 patches;

7 (2) the extent to which the connected device
8 gives—

9 (A) a parent meaningful control over the
10 information of a child of the parent; and

11 (B) a minor meaningful control over the
12 information of the minor;

13 (3) the extent to which the device minimizes the
14 collection, retention, and use of information from a
15 child or minor;

16 (4) the location of privacy policies;

17 (5) the type of personal information the con-
18 nected device may collect; and

19 (6) any other information as the Commission
20 considers appropriate.

21 (c) REGULATIONS.—Not later than 1 year after the
22 date of enactment of this Act, the Commission shall pro-
23 mulgate, under section 553 of title 5, United States Code,
24 regulations to implement this section.

1 **SEC. 9. PROHIBITION ON SALE OF CONNECTED DEVICES**
2 **FOR CHILDREN AND MINORS THAT FAIL TO**
3 **MEET APPROPRIATE CYBERSECURITY AND**
4 **DATA SECURITY STANDARDS.**

5 (a) PROHIBITION.—Beginning 1 year after the date
6 of enactment of this Act, or such earlier date as the Com-
7 mission considers appropriate, no person may sell a con-
8 nected device unless the connected device meets appro-
9 priate cybersecurity and data security standards estab-
10 lished by the Commission.

11 (b) CYBERSECURITY AND DATA SECURITY STAND-
12 ARDS.—

13 (1) IN GENERAL.—The Commission shall pro-
14 mulgate, under section 553 of title 5, United States
15 Code, cybersecurity and data security standards de-
16 scribed in subsection (a).

17 (2) CONSIDERATIONS.—In promulgating cyber-
18 security and data security standards under para-
19 graph (1), the Commission shall—

20 (A) create cybersecurity and data security
21 standards for different subsets of connected de-
22 vices based on the varying degrees of—

23 (i) cybersecurity and data security
24 risk associated with each subset of con-
25 nected device;

1 (ii) sensitivity of information collected,
2 stored, or transmitted by each subset of
3 connected device; and

4 (iii) functionality of each subset of
5 connected device;

6 (B) consider incorporating, to the extent
7 practicable, existing cybersecurity and data se-
8 curity standards; and

9 (C) ensure that the cybersecurity and data
10 security standards—

11 (i) are consistent with Fair Informa-
12 tion Practice Principles described in sec-
13 tion 4; and

14 (ii) promote data minimization.

15 **SEC. 10. RULE FOR TREATMENT OF USERS OF WEBSITES,**
16 **SERVICES, AND APPLICATIONS DIRECTED TO**
17 **CHILDREN OR MINORS.**

18 For the purposes of this Act, an operator of a
19 website, online service, online application, or mobile appli-
20 cation that is directed to children or minors shall treat
21 each user of that website, online service, online applica-
22 tion, or mobile application as a child or minor, respective
23 to whether the website, online service, online application,
24 or mobile application is directed to children or minors, ex-

1 cept as permitted by the Commission pursuant to a regula-
2 tion promulgated under this Act.

3 **SEC. 11. ENFORCEMENT AND APPLICABILITY.**

4 (a) ENFORCEMENT BY THE COMMISSION.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided, this Act and the regulations prescribed under
7 this Act shall be enforced by the Commission under
8 the Federal Trade Commission Act (15 U.S.C. 41 et
9 seq.).

10 (2) UNFAIR OR DECEPTIVE ACTS OR PRAC-
11 TICES.—Subject to subsection (b), a violation of this
12 Act or a regulation prescribed under this Act shall
13 be treated as a violation of a rule defining an unfair
14 or deceptive act or practice prescribed under section
15 18(a)(1)(B) of the Federal Trade Commission Act
16 (15 U.S.C. 57a(a)(1)(B)).

17 (3) ACTIONS BY THE COMMISSION.—

18 (A) IN GENERAL.—Subject to subsection
19 (b), and except as provided in subsection (d)(1),
20 the Commission shall prevent any person from
21 violating this Act or a regulation prescribed
22 under this Act in the same manner, by the
23 same means, and with the same jurisdiction,
24 powers, and duties as though all applicable
25 terms and provisions of the Federal Trade

1 Commission Act (15 U.S.C. 41 et seq.) were in-
2 corporated into and made a part of this Act,
3 and any person who violates this Act or such
4 regulation shall be subject to the penalties and
5 entitled to the privileges and immunities pro-
6 vided in the Federal Trade Commission Act.

7 (B) VIOLATIONS.—In an action brought by
8 the Commission to enforce this Act and the reg-
9 ulations prescribed under this Act, each con-
10 nected device that fails to meet a standard pro-
11 mulgated under this Act shall be treated as a
12 separate violation.

13 (b) ENFORCEMENT BY CERTAIN OTHER AGEN-
14 CIES.—Notwithstanding subsection (a), compliance with
15 the requirements imposed under this Act shall be enforced
16 as follows:

17 (1) Under section 8 of the Federal Deposit In-
18 surance Act (12 U.S.C. 1818) by the appropriate
19 Federal banking agency, with respect to an insured
20 depository institution (as such terms are defined in
21 section 3 of such Act (12 U.S.C. 1813)).

22 (2) Under the Federal Credit Union Act (12
23 U.S.C. 1751 et seq.) by the National Credit Union
24 Administration Board, with respect to any Federal
25 credit union.

1 (3) Under part A of subtitle VII of title 49,
2 United States Code, by the Secretary of Transpor-
3 tation, with respect to any air carrier or foreign air
4 carrier subject to such part.

5 (4) Under the Packers and Stockyards Act,
6 1921 (7 U.S.C. 181 et seq.) (except as provided in
7 section 406 of that Act (7 U.S.C. 226; 227)) by the
8 Secretary of Agriculture, with respect to any activi-
9 ties subject to that Act.

10 (5) Under the Farm Credit Act of 1971 (12
11 U.S.C. 2001 et seq.) by the Farm Credit Adminis-
12 tration, with respect to any Federal land bank, Fed-
13 eral land bank association, Federal intermediate
14 credit bank, or production credit association.

15 (c) ENFORCEMENT BY STATE ATTORNEYS GEN-
16 ERAL.—

17 (1) IN GENERAL.—

18 (A) CIVIL ACTIONS.—In any case in which
19 the attorney general of a State has reason to
20 believe that an interest of the residents of that
21 State has been or is threatened or adversely af-
22 fected by the engagement of any person in a
23 practice that violates this Act or a regulation
24 prescribed under this Act, the State, as *parens*
25

1 the residents of the State in a district court of
2 the United States of appropriate jurisdiction
3 to—

4 (i) enjoin that practice;

5 (ii) enforce compliance with this Act
6 or such regulation;

7 (iii) obtain damages, restitution, or
8 other compensation on behalf of residents
9 of the State; or

10 (iv) obtain such other relief as the
11 court may consider to be appropriate.

12 (B) NOTICE.—

13 (i) IN GENERAL.—Before filing an ac-
14 tion under subparagraph (A), the attorney
15 general of the State involved shall provide
16 to the Commission—

17 (I) written notice of that action;

18 and

19 (II) a copy of the complaint for
20 that action.

21 (ii) EXEMPTION.—

22 (I) IN GENERAL.—Clause (i)
23 shall not apply with respect to the fil-
24 ing of an action by an attorney gen-
25 eral of a State under this paragraph

1 if the attorney general of the State
2 determines that it is not feasible to
3 provide the notice described in that
4 clause before the filing of the action.

5 (II) NOTIFICATION.—In an ac-
6 tion described in subclause (I), the at-
7 torney general of a State shall provide
8 notice and a copy of the complaint to
9 the Commission at the same time as
10 the attorney general files the action.

11 (2) INTERVENTION.—

12 (A) IN GENERAL.—On receiving notice
13 under paragraph (1)(B), the Commission shall
14 have the right to intervene in the action that is
15 the subject of the notice.

16 (B) EFFECT OF INTERVENTION.—If the
17 Commission intervenes in an action under para-
18 graph (1), it shall have the right—

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

21 (ii) to file a petition for appeal.

22 (3) CONSTRUCTION.—For purposes of bringing
23 any civil action under paragraph (1), nothing in this
24 Act shall be construed to prevent an attorney gen-
25 eral of a State from exercising the powers conferred

1 on the attorney general by the laws of that State
2 to—

3 (A) conduct investigations;

4 (B) administer oaths or affirmations; or

5 (C) compel the attendance of witnesses or
6 the production of documentary and other evi-
7 dence.

8 (4) ACTIONS BY THE COMMISSION.—In any
9 case in which an action is instituted by or on behalf
10 of the Commission for violation of this Act or a reg-
11 ulation prescribed under this Act, no State may,
12 during the pendency of that action, institute an ac-
13 tion under paragraph (1) against any defendant
14 named in the complaint in the action instituted by
15 or on behalf of the Commission for that violation.

16 (5) VENUE; SERVICE OF PROCESS.—

17 (A) VENUE.—Any action brought under
18 paragraph (1) may be brought in the district
19 court of the United States that meets applicable
20 requirements relating to venue under section
21 1391 of title 28, United States Code.

22 (B) SERVICE OF PROCESS.—In an action
23 brought under paragraph (1), process may be
24 served in any district in which the defendant—

25 (i) is an inhabitant; or

1 (ii) may be found.

2 (d) TELECOMMUNICATIONS CARRIERS AND CABLE
3 OPERATORS.—

4 (1) ENFORCEMENT BY COMMISSION.—Notwith-
5 standing section 5(a)(2) of the Federal Trade Com-
6 mission Act (15 U.S.C. 45(a)(2)), compliance with
7 the requirements imposed under this Act shall be en-
8 forced by the Commission with respect to any tele-
9 communications carrier (as defined in section 3 of
10 the Communications Act of 1934 (47 U.S.C. 153)).

11 (2) RELATIONSHIP TO OTHER LAWS.—To the
12 extent that section 222, 338(i), or 631 of the Com-
13 munications Act of 1934 (47 U.S.C. 222; 338(i);
14 551) is inconsistent with this Act, this Act controls.

15 (e) SAFE HARBORS.—

16 (1) DEFINITION.—In this subsection—

17 (A) the term “applicable section” means
18 section 5, 6, 7, 8, or 9 of this Act;

19 (B) the term “covered operator” means an
20 operator subject to guidelines approved under
21 paragraph (2);

22 (C) the term “requesting entity” means an
23 entity that submits a safe harbor request to the
24 Commission; and

1 (D) the term “safe harbor request” means
2 a request to have self-regulatory guidelines de-
3 scribed in paragraph (2)(A) approved under
4 that paragraph.

5 (2) GUIDELINES.—

6 (A) IN GENERAL.—An operator may sat-
7 isfy the requirements of regulations issued
8 under an applicable section by following a set of
9 self-regulatory guidelines, issued by representa-
10 tives of the marketing or online industries, or
11 by other persons, that, after notice and an op-
12 portunity for comment, are approved by the
13 Commission upon making a determination that
14 the guidelines meet the requirements of the reg-
15 ulations issued under that applicable section.

16 (B) EXPEDITED RESPONSE TO RE-
17 QUESTS.—Not later than 180 days after the
18 date on which a safe harbor request is filed
19 under subparagraph (A), the Commission shall
20 act upon the request set forth in writing the
21 conclusions of the Commission with regard to
22 the request.

23 (C) APPEALS.—A requesting entity may
24 appeal the final action of the Commission under
25 subparagraph (B), or a failure by the Commis-

1 sion to act in the period described in that para-
2 graph, to a district court of the United States
3 of appropriate jurisdiction, as provided for in
4 section 706 of title 5, United States Code.

5 (3) INCENTIVES.—

6 (A) SELF-REGULATORY INCENTIVES.—In
7 prescribing regulations under an applicable sec-
8 tion, the Commission shall provide incentives
9 for self-regulation by covered operators to im-
10 plement the protections afforded children and
11 minors, as applicable, under the regulatory re-
12 quirements described in those sections.

13 (B) DEEMED COMPLIANCE.—The incen-
14 tives under subparagraph (A) shall include pro-
15 visions for ensuring that a covered operator will
16 be deemed to be in compliance with the require-
17 ments of the regulations under an applicable
18 section if that person complies with guidelines
19 approved under paragraph (2).

20 (4) REGULATIONS.—In prescribing regulations
21 relating to safe harbor guidelines under an applica-
22 ble section, the Commission shall—

23 (A) establish criteria for the approval of
24 guidelines that will ensure that a covered oper-
25 ator provides substantially the same or greater

1 protections for children and minors, as applica-
2 ble, as those contained in the regulations issued
3 under the applicable section; and

4 (B) require that any report or documenta-
5 tion required to be submitted to the Commis-
6 sion by a covered operator or requesting entity
7 will be published on the internet website of the
8 Commission, except to the extent that the re-
9 port or documentation contains proprietary in-
10 formation, which the Commission may in its
11 discretion redact.

12 **SEC. 12. EFFECTIVE DATES.**

13 (a) IN GENERAL.—Except as provided in subsections
14 (b) and (c), this Act and the amendments made by this
15 Act shall take effect on the date that is 1 year after the
16 date of enactment of this Act.

17 (b) AUTHORITY TO PROMULGATE REGULATIONS.—
18 The following shall take effect on the date of enactment
19 of this Act:

20 (1) Section 2(b).

21 (2) The amendments made by subsections
22 (a)(6) and (b) of section 3.

23 (3) Sections 5(b), 6(b), 7(b), 8(c), and 9(b).

24 (c) DIGITAL MARKETING BILL OF RIGHTS FOR MI-
25 NORS.—Section 5(a) shall take effect on the date that is

1 180 days after the promulgation of regulations under that
2 subsection.

3 (d) **PRIVACY DASHBOARD FOR CONNECTED DEVICES**
4 **FOR CHILDREN AND MINORS.**—Subsections (a) and (b)
5 of section 8 shall take effect on the date that is 180 days
6 after the promulgation of regulations under such sub-
7 section.