

110TH CONGRESS
1ST SESSION

H. R. 837

To amend title 18, United States Code, to protect youth from exploitation by adults using the Internet, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2007

Mr. SMITH of Texas (for himself, Mr. FORBES, Mr. GALLEGLY, Mr. CHABOT, Mr. FEENEY, Mr. FRANKS of Arizona, and Mr. PENCE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to protect youth from exploitation by adults using the Internet, 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 “Internet Stopping
5 Adults Facilitating the Exploitation of Today’s Youth Act
6 (SAFETY) of 2007”.

1 **SEC. 2. FINANCIAL FACILITATION OF ACCESS TO CHILD**
2 **PORNOGRAPHY.**

3 (a) OFFENSE.—Chapter 95 of title 18, United States
4 Code, is amended by adding at the end the following:

5 **“§ 1960A. Financial facilitation of access to child por-**
6 **nography**

7 “Whoever knowingly conducts, or attempts or con-
8 spires to conduct, a financial transaction (as defined in
9 section 1956(c)) in or affecting interstate or foreign com-
10 merce, knowing that such transaction will facilitate access
11 to, or the possession of, child pornography (as defined in
12 section 2256) shall be fined under this title or imprisoned
13 not more than 20 years, or both.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of chapter 95 of title 18, United States
16 Code, is amended by adding at the end the following new
17 item:

“1960A. Financial facilitation of access to child pornography.”.

18 **SEC. 3. INTERNET FACILITATION OF CHILD PORNOGRAPHY**
19 **AND EXPLOITATION OF CHILDREN.**

20 (a) OFFENSE.—Chapter 95 of title 18, United States
21 Code, is amended by adding at the end the following:

22 **“§ 1960B. Internet facilitation of child pornography**
23 **and exploitation of children**

24 “(a) OFFENSE.—Whoever, being an Internet content
25 hosting provider or email service provider, knowingly en-

1 gages in any conduct the provider knows or has reason
2 to believe facilitates access to, or the possession of, child
3 pornography (as defined in section 2256) shall be fined
4 under this title or imprisoned not more than 10 years, or
5 both.

6 “(b) DEFINITIONS.—As used in this section—

7 “(1) the term ‘Internet content hosting pro-
8 vider’ means a service that—

9 “(A) stores, through electromagnetic or
10 other means, electronic data, including the con-
11 tent of web pages, electronic mail, documents,
12 images, audio and video files, online discussion
13 boards, and weblogs; and

14 “(B) makes such data available via the
15 Internet

16 “(2) the term ‘email service provider’ means a
17 person that—

18 “(A) provides a service, using the Internet,
19 for the transmission, receipt, storage, and re-
20 trieval, by registered users, of electronic mail
21 messages; and

22 “(B) receives the content of, and recipient
23 list for, electronic mail messages that it trans-
24 mits, receives, or stores for the person or entity
25 procuring such services.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 95 of title 18, United States
3 Code, is amended by adding at the end the following new
4 item:

“1960B. Internet facilitation of child pornography and exploitation of children”.

5 **SEC. 4. CHILD PORNOGRAPHY REPORTING.**

6 (a) CHILD PORNOGRAPHY REPORTING.—Section
7 227(b)(4) of the Victims of Child Abuse Act of 1990 (42
8 U.S.C. 13032(b)(4)) is amended to read as follows:

9 “(4) FAILURE TO REPORT.—

10 “(A) KNOWING FAILURE.—A provider of
11 electronic communication services or remote
12 computing services described in paragraph (1)
13 who knowingly fails to make a report under
14 that paragraph shall be fined—

15 “(i) in the case of an initial failure to
16 make a report, not more than \$150,000;
17 and

18 “(ii) in the case of any second or sub-
19 sequent failure to make a report, not more
20 than \$300,000.

21 “(B) NEGLIGENT FAILURE.—A provider of
22 electronic communication services or remote
23 computing services described in paragraph (1)
24 who negligently fails to make a report under

1 that paragraph shall be subject to a civil pen-
2 alty of—

3 “(i) in the case of an initial failure to
4 make a report, not more than \$50,000;
5 and

6 “(ii) in the case of any second or sub-
7 sequent failure to make a report, not more
8 than \$100,000.

9 “(C) AUTHORITY.—For the purposes of
10 this paragraph, the Federal Communications
11 Commission—

12 “(i) may levy civil penalties under
13 subparagraph (B); and

14 “(ii) shall promulgate regulations, in
15 consultation with the Attorney General,
16 to—

17 “(I) effectuate the purposes of
18 subparagraph (B); and

19 “(II) provide for appropriate ad-
20 ministrative review of any civil pen-
21 alties levied under that subpara-
22 graph.”.

23 **SEC. 5. MONEY LAUNDERING PREDICATE.**

24 Section 1956(c)(7)(D) of title 18, United States
25 Code, is amended—

1 (1) by inserting “1466A (relating to obscene
2 visual representation of the abuse of children),” be-
3 fore “section 1708”;

4 (2) “1960A (relating to financial facilitation of
5 access to child pornography), 1960B (relating to
6 Internet facilitation of child pornography and exploi-
7 tation of children),” before “section 2113”; and

8 (3) by inserting “2252A (relating to child por-
9 nography), 2260A (relating to increased penalties
10 for registered sex offenders),” before “section
11 2280”.

12 **SEC. 6. RECORD RETENTION REQUIREMENTS FOR INTER-**
13 **NET SERVICE PROVIDERS.**

14 (a) REGULATIONS.—Not later than 90 days after the
15 date of the enactment of this section, the Attorney General
16 shall issue regulations governing the retention of records
17 by Internet Service Providers. Such regulations shall, at
18 a minimum, require retention of records, such as the name
19 and address of the subscriber or registered user to whom
20 an Internet Protocol address, user identification or tele-
21 phone number was assigned, in order to permit compliance
22 with court orders that may require production of such in-
23 formation.

24 (b) FAILURE TO COMPLY.—Whoever knowingly fails
25 to retain any record required under this section shall be

1 fined under title 18, United States Code, and imprisoned
2 for not more than one year, or both.

3 **SEC. 7. INCREASED PENALTIES FOR SEXUAL EXPLOI-**
4 **TATION OF CHILDREN.**

5 Section 2251(e) of title 18, United States Code, is
6 amended—

7 (1) by striking “15 years nor more than 30
8 years” and inserting “20 years or for life”; and

9 (2) by striking “not less than 25 years nor
10 more than 50 years,” and all that follows through
11 “not less than 35 years nor more than life.” and in-
12 serting “life.”.

13 **SEC. 8. INCREASED PENALTIES FOR ACTIVITIES RELATING**
14 **TO MATERIAL INVOLVING THE SEXUAL EX-**
15 **PLOITATION OF CHILDREN.**

16 Section 2252(b) of title 18, United States Code, is
17 amended—

18 (1) in paragraph (1)—

19 (A) by striking “5 years and not more
20 than 20 years” and inserting “15 years or for
21 life”; and

22 (B) by striking “not less than 15 years nor
23 more than 40 years.” and inserting “life.”; and

24 (2) in paragraph (2)—

1 (A) by striking “or imprisoned not more
2 than 10 years, or both” and inserting “and im-
3 prisoned for not less than 3 years nor more
4 than 20 years”; and

5 (B) by striking “10 years nor more than
6 20 years.” and inserting “20 years or for life.”.

7 **SEC. 9. INCREASED PENALTIES FOR ACTIVITIES RELATING**
8 **TO MATERIAL CONSTITUTING OR CON-**
9 **TAINING CHILD PORNOGRAPHY.**

10 Section 2252A(b) of title 18, United States Code, is
11 amended—

12 (1) in paragraph (1)—

13 (A) by striking “5 years and not more
14 than 20 years” and inserting “15 years or for
15 life”; and

16 (B) by striking “not less than 15 years nor
17 more than 40 years” and inserting “life”; and

18 (2) in paragraph (2)—

19 (A) by striking “or imprisoned not more
20 than 10 years, or both” and inserting “and im-
21 prisoned for not less than 3 years nor more
22 than 20 years”; and

23 (B) by striking “10 years nor more than
24 20 years” and inserting “20 years or for life”.

1 **SEC. 10. REQUIREMENT TO PLACE WARNING MARKS ON**
2 **COMMERCIAL WEBSITES CONTAINING SEXU-**
3 **ALLY EXPLICIT MATERIAL.**

4 (a) DEFINITIONS.—In this section—

5 (1) the term “Commission” means the Federal
6 Trade Commission;

7 (2) the term “website” means any collection of
8 material placed in a computer server-based file ar-
9 chive so that it is publicly accessible, over the Inter-
10 net, using hypertext transfer protocol or any suc-
11 cessor protocol except that the term does not include
12 any collection of material where access to sexually
13 explicit material is restricted to a specific set of indi-
14 viduals through the provision of a password or
15 through another access restriction mechanism;

16 (3) the term “sexually explicit material” means
17 any material that depicts sexually explicit conduct
18 (as that term is defined in subsection (2)(A) of sec-
19 tion 2256 of title 18, United States Code), unless
20 the depiction constitutes a small and insignificant
21 part of the whole, the remainder of which is not pri-
22 marily devoted to sexual matters;

23 (4) the term “Internet” means the combination
24 of computer facilities and electromagnetic trans-
25 mission media, and related equipment and software,
26 comprising the interconnected worldwide network of

1 computer networks that employ the Transmission
2 Control Protocol/Internet Protocol or any successor
3 protocol to transmit information; and

4 (5) the term “Internet access service”—

5 (A) means a service that enables users to
6 access content, information, electronic mail, or
7 other services offered over the Internet, and
8 may also include access to proprietary content,
9 information, and other services as part of a
10 package of services offered to consumers; and

11 (B) does not include telecommunications
12 services.

13 (b) LABELING REQUIREMENT.—Except as provided
14 in subsection (d), no person who operates a website that
15 is primarily operated for commercial purposes, in or af-
16 fecting interstate or foreign commerce, may knowingly,
17 and with knowledge of the character of the material, place
18 on that website sexually explicit material, and fail—

19 (1) to include on each page of the website that
20 contains sexually explicit material, the marks and
21 notices prescribed by the Commission under sub-
22 section (c); or

23 (2) to ensure that the matter on the website
24 that is initially viewable, absent any further actions

1 by the viewer, does not include any sexually explicit
2 material.

3 (c) PRESCRIPTION OF MARKS AND NOTICES.—Not
4 later than 90 days after the date of enactment of this Act,
5 the Commission shall, in consultation with the Attorney
6 General, establish by regulation clearly identifiable marks
7 or notices to be included in the code, if technologically fea-
8 sible, or if not feasible on the pages, of websites that con-
9 tain sexually explicit material in order to inform the viewer
10 of that fact and to facilitate the filtering of such pages.

11 (d) INAPPLICABILITY TO CARRIERS AND OTHER
12 SERVICE PROVIDERS.—This section shall not apply to a
13 person, to the extent that such person is—

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

16 (2) a person engaged in the business of pro-
17 viding an Internet access service; or

18 (3) similarly engaged in the transmission, stor-
19 age, retrieval, hosting, formatting, or translation (or
20 any combination thereof) of a communication made
21 by another person, without selection or alteration of
22 the content of the communication, and such person's
23 deletion of a particular communication or material
24 made by another person in a manner consistent with
25 any applicable law or regulation shall not constitute

1 selection or alteration of the content of the commu-
2 nication.

3 (e) PENALTIES.—Whoever violates subsection (b)—

4 (1) shall be fined under title 18, United States
5 Code, imprisoned not more than 5 years, or both;
6 and

7 (2) shall be fined under title 18, United States
8 Code, and imprisoned for not less than 5 years nor
9 more than 15 years, if such person has a prior con-
10 viction under—

11 (A) this section;

12 (B) section 1591 or chapter 71, chapter
13 109A, chapter 110, or chapter 117 of title 18,
14 United States Code;

15 (C) section 920 of title 10, United States
16 Code, (article 120 of the Uniform Code of Mili-
17 tary Justice); or

18 (D) the laws of any State relating to—

19 (i) aggravated sexual abuse, sexual
20 abuse, or abusive sexual contact involving
21 a minor or ward;

22 (ii) the production, possession, receipt,
23 mailing, sale, distribution, shipment, or
24 transportation of child pornography; or

25 (iii) sex trafficking of children.

1 **SEC. 11. ADDITIONAL RICO PREDICATES.**

2 Section 1961(1) of title 18, United States Code, is
3 amended—

4 (1) by inserting “section 641 (relating to em-
5 bezzlement or theft of public money, property, or
6 records,” after “473 (relating to counterfeiting),”;
7 and

8 (2) by inserting “section 666 (relating to theft
9 or bribery concerning programs receiving Federal
10 funds),” after “section 664 (relating to embezzle-
11 ment from pension and welfare funds),”.

12 **SEC. 12. ADDITIONAL RESOURCES FOR THE INNOCENT IM-
13 AGES NATIONAL INITIATIVE.**

14 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
15 are authorized to be appropriated to the Director of the
16 Federal Bureau of Investigation to carry out the Innocent
17 Images National Initiative, \$30,000,000 for each of the
18 fiscal years 2008 through 2012.

19 (b) **AVAILABILITY.**—Any amounts appropriated pur-
20 suant to subsection (a) shall remain available until ex-
21 pended.

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