111TH CONGRESS
1ST SESSION

H. R. 1319

To prevent the inadvertent disclosure of information on a computer through the use of certain "peer-to-peer" file sharing software without first providing notice and obtaining consent from the owner or authorized user of the computer.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2009

Mrs. BONO MACK (for herself, Mr. BARROW, and Mr. BARTON of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To prevent the inadvertent disclosure of information on a computer through the use of certain "peer-to-peer" file sharing software without first providing notice and obtaining consent from the owner or authorized user of the computer.

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 "Informed P2P User

5 Act".

SEC. 2. CONDUCT PROHIBITED.

(a) IMPROPER DISCLOSURE OF PERSONAL INFORMA-TION WITHOUT NOTICE AND CONSENT.—It is unlawful for any person who is not an owner or authorized user of a protected computer to cause or induce an owner or authorized user of the protected computer to make files from a protected computer available to another computer through a peer-to-peer file sharing program without—

(1) immediately prior to the installation of such program—

(A) providing clear and conspicuous notice that such program allows files on the protected computer to be available for searching and copying by another computer; and

(B) obtaining the informed consent to the installation of such program from an owner or authorized user of the protected computer; and

(2) immediately prior to initial activation of a file sharing function of such program—

(A) providing clear and conspicuous notice of which files are to be made available to another computer; and

(B) obtaining the informed consent from an owner or authorized user of the protected computer for such files to be made available.

1   (b) PREVENTING THE DISABLING OR REMOVAL OF

2 CERTAIN SOFTWARE.—It is unlawful for any person who

3 is not an owner or authorized user of a protected com-

4 puter—

5   (1) to prevent the reasonable efforts of an

6   owner or authorized user from blocking the installa-

7   tion of a peer-to-peer file sharing program or func-

8   tion thereof; or

9   (2) to fail to provide a reasonable and effective

10   means to disable or remove from the protected com-

11   puter any peer-to-peer file sharing program or func-

12   tion thereof that the person caused to be installed on

13   that computer or induced another person to install.

14 **SEC. 3. ENFORCEMENT.**

15   (a) UNFAIR AND DECEPTIVE ACTS AND PRAC-

16 TICES.—A violation of section 2 shall be treated as a viola-

17 tion of a rule defining an unfair or deceptive act or prac-

18 tice prescribed under section 18(a)(1)(B) of the Federal

19 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

20   (b) FEDERAL TRADE COMMISSION ENFORCE-

21 MENT.—The Federal Trade Commission shall enforce this

22 Act in the same manner, by the same means, and with

23 the same jurisdiction as though all applicable terms and

24 provisions of the Federal Trade Commission Act were in-

25 corporated into and made a part of this Act.

1 (c) PRESERVATION OF FEDERAL AND STATE AU-

2 THORITY.—Nothing in this Act shall be construed to limit

3 or supersede any other Federal or State law.

4 **SEC. 4. DEFINITIONS.**

5   As used in this Act—

6   (1) the term "protected computer" has the

7 meaning given such term in section 1030(e)(2) of

8 title 18, United States Code; and

9   (2) the term "peer-to-peer file sharing pro-

10 gram" means computer software that allows the

11 computer on which such software is installed—

12   (A) to designate files available for trans-

13 mission to another computer;

14   (B) to transmit files directly to another

15 computer; and

16   (C) to request the transmission of files

17 from another computer.

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