

**Calendar No. 436**

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1482**

**[Report No. 105–225]**

To amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 1997

Mr. COATS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JUNE 25, 1998

Reported by Mr. MCCAIN, without amendment

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**A BILL**

To amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful 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,*

1 **SECTION 1. PROHIBITION ON COMMERCIAL DISTRIBUTION**  
2 **ON THE WORLD WIDE WEB OF MATERIAL**  
3 **THAT IS HARMFUL TO MINORS.**

4 (a) PROHIBITION.—

5 (1) IN GENERAL.—Section 223 of the Commu-  
6 nications Act of 1934 (47 U.S.C. 223) is amended—

7 (A) by redesignating subsections (e), (f),  
8 (g), and (h) as subsections (f), (g), (h), and (i),  
9 respectively; and

10 (B) by inserting after subsection (d) the  
11 following new subsection (e):

12 “(e)(1) Whoever in interstate or foreign commerce in  
13 or through the World Wide Web is engaged in the business  
14 of the commercial distribution of material that is harmful  
15 to minors shall restrict access to such material by persons  
16 under 17 years of age.

17 “(2) Any person who violates paragraph (1) shall be  
18 fined not more than \$50,000, imprisoned not more than  
19 six months, or both.

20 “(3) In addition to the penalties under paragraph (2),  
21 whoever intentionally violates paragraph (1) shall be sub-  
22 ject to a fine of not more than \$50,000 for each violation.  
23 For purposes of this paragraph, each day of violation shall  
24 constitute a separate violation.

25 “(4) In addition to the penalties under paragraphs  
26 (2) and (3), whoever violates paragraph (1) shall be sub-

1 ject to a civil fine of not more than \$50,000 for each viola-  
2 tion. For purposes of this paragraph, each day of violation  
3 shall constitute a separate violation.

4 “(5) It is an affirmative defense to prosecution under  
5 this subsection that the defendant restricted access to ma-  
6 terial that is harmful to minors by persons under 17 years  
7 of age by requiring use of a verified credit card, debit ac-  
8 count, adult access code, or adult personal identification  
9 number or in accordance with such other procedures as  
10 the Commission may prescribe.

11 “(6) This subsection may not be construed to author-  
12 ize the Commission to regulate in any manner the content  
13 of any information provided on the World Wide Web.

14 “(7) For purposes of this subsection:

15 “(A) The term ‘material that is harmful to mi-  
16 nors’ means any communication, picture, image,  
17 graphic image file, article, recording, writing, or  
18 other matter of any kind that—

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

22 “(ii) depicts, describes, or represents, in a  
23 patently offensive way with respect to what is  
24 suitable for minors, an actual or simulated sex-  
25 ual act or sexual contact, actual or simulated

1 normal or perverted sexual acts, or a lewd exhi-  
2 bition of the genitals; and

3 “(iii) lacks serious literary, artistic, politi-  
4 cal, or scientific value.

5 “(B) The terms ‘sexual act’ and ‘sexual contact’  
6 have the meanings assigned such terms in section  
7 2246 of title 18, United States Code.”.

8 (2) CONFORMING AMENDMENT.—Subsection (g)  
9 of such section, as so redesignated, is amended by  
10 striking “(e), or (f)” and inserting “(f), or (g)”.

11 (b) AVAILABILITY ON INTERNET OF DEFINITION OF  
12 MATERIAL THAT IS HARMFUL TO MINORS.—The Attor-  
13 ney General, in the case of the Internet web site of the  
14 Department of Justice, and the Federal Communications  
15 Commission, in the case of the Internet web site of the  
16 Commission, shall each post or otherwise make available  
17 on such web site such information as is necessary to in-  
18 form the public of the meaning of the term “material that  
19 is harmful to minors” under section 223(e) of the Commu-  
20 nications Act of 1934, as amended by subsection (a) of  
21 this section.



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