

109TH CONGRESS
1ST SESSION

H. R. 3608

To amend the Controlled Substances Act to prohibit third-party Internet sales sites from posting offers to sell controlled substances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. SWEENEY introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Controlled Substances Act to prohibit third-party Internet sales sites from posting offers to sell controlled substances, 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 Drug Sales
5 Accountability Act”.

1 **SEC. 2. SALES OF CONTROLLED SUBSTANCES THROUGH**
2 **THIRD-PARTY INTERNET SALES SITES.**

3 The Controlled Substances Act (21 U.S.C. 801 et
4 seq.) is amended by inserting after section 423 the fol-
5 lowing section:

6 **“SEC. 424. PROHIBITIONS REGARDING SALES OF CON-**
7 **TROLLED SUBSTANCES THROUGH THIRD-**
8 **PARTY INTERNET SALES SITES.**

9 “(a) IN GENERAL.—Subject to subsection (d), it is
10 unlawful for a person who controls a third-party Internet
11 sales site—

12 “(1) to accept for posting on the site an offer
13 to sell an item that the person knows is a controlled
14 substance; or

15 “(2) to fail to promptly remove from the site an
16 offer to sell an item when a Federal or State official
17 notifies the person, in accordance with subsection
18 (e), that the item is a controlled substance.

19 “(b) THIRD-PARTY INTERNET SALES SITE.—For
20 purposes of this section, the term ‘third-party Internet
21 sales site’ means an Internet site, operated as part of a
22 business, that permits users of the site to post an offer
23 to sell an item directly to a consumer.

24 “(c) ADVERTISING.—For purposes of this section, the
25 term ‘offer’, with respect to the sale of an item, includes
26 an advertisement for the sale of the item.

1 “(d) EXCLUSION REGARDING LICENSED PHAR-
2 MACIES.—Subsection (a) does not have any applicability
3 with respect to the sale of controlled substances by a li-
4 censed pharmacy, including a licensed Internet pharmacy.

5 “(e) NOTICE REGARDING CONTROLLED SUB-
6 STANCE.—A person who controls a third-party Internet
7 sales site shall create a system for receipt of notice under
8 subsection (a)(2) in accordance with this subsection if the
9 notice is in writing and the notice—

10 “(1) specifies this section as the relevant statu-
11 tory authority;

12 “(2) specifies the name, title, physical address,
13 and contact information of the Federal or State offi-
14 cial or officials who sent the notice;

15 “(3) specifies the third-party Internet site in-
16 volved;

17 “(4) specifies the offer with which the notice is
18 concerned, including the controlled substance in-
19 volved;

20 “(5) specifies the location of the offer on the
21 site through the uniform resource locator (commonly
22 referred to as the URL) or through the Internet
23 Protocol numbers that constitute the address of the
24 location; and

1 “(6) is provided to the designated agent of the
2 third-party Internet sales site designated in accord-
3 ance with section 512 of title 17, United States
4 Code, if the site has designated such an agent.

5 “(f) PENALTIES.—

6 “(1) CRIMINAL PENALTIES.—

7 “(A) FIRST CONVICTION.—A person who
8 violates subsection (a) shall be fined under title
9 18, United States Code, or imprisoned not more
10 than one year, or both, subject to subparagraph
11 (B).

12 “(B) SUBSEQUENT CONVICTIONS.—If a
13 person commits a violation of subsection (a)
14 after a single prior conviction of the person
15 under this paragraph, the person shall for such
16 violation be fined under title 18, United States
17 Code, or imprisoned not more than five years,
18 or both. If a person commits a violation of such
19 subsection after two or more prior convictions
20 of the person under this paragraph, the person
21 shall for such violation be fined under such title
22 or imprisoned not more than 10 years, or both.

23 “(2) CIVIL PENALTY.—A person who violates a
24 requirement under subsection (e) is subject to a civil

1 penalty not exceeding \$1,000,000 for each such vio-
2 lation.

3 “(g) PROTECTION FOR IDENTIFYING AND REMOVING
4 ILLEGAL OFFERS.—

5 “(1) MONITORING AND REMOVAL OF OFFERS.—
6 A third-party Internet sales site should monitor and
7 remove in good faith any posting of an offer to sell
8 an item that the third-party Internet sales site be-
9 lieves to violate Federal or State law, or that is the
10 subject of a notice described in subsection (e).

11 “(2) PROTECTION AGAINST LIABILITY.—A
12 third-party Internet sales site that in good faith
13 monitors and removes any posting in accordance
14 with paragraph (1) shall not be liable under any
15 Federal or State law.

16 “(h) ADDITIONAL DEFINITIONS.—For purposes of
17 this section:

18 “(1) The term ‘control’, with respect to an
19 Internet site, means to have the legal right to exer-
20 cise control over all or substantially all of the con-
21 tent of the site, without regard to the extent to
22 which such authority actually is exercised.

23 “(2) The term ‘Internet’ means collectively the
24 myriad of computer and telecommunications facili-
25 ties, including equipment and operating software,

1 which comprise the interconnected world-wide net-
2 work of networks that employ the transmission con-
3 trol protocol/internet protocol, or any predecessor or
4 successor protocols to such protocol, to communicate
5 information of all kinds by wire or radio.

6 “(3) The terms ‘Internet site’, with respect to
7 the Internet, mean a specific location on the Inter-
8 net that is determined by Internet Protocol numbers
9 or by any successor protocol for determining a spe-
10 cific location on the Internet.

11 “(4) The term ‘licensed Internet pharmacy’
12 mean an Internet site that is controlled by a licensed
13 pharmacy and is used by such pharmacy to make
14 sales of controlled substances or other drugs.

15 “(5) The term ‘licensed pharmacy’ means a
16 person who is licensed as a pharmacy under applica-
17 ble Federal or State law.

18 “(6) The term ‘remove’, with respect to an offer
19 posted on a third-party Internet sales site, includes
20 disabling public access to the offer.”.

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