

111TH CONGRESS
1ST SESSION

H. R. 1166

To amend title 18, United States Code, to provide for more effective enforcement of the Federal prohibition on the interstate shipment of stolen property, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2009

Mr. SCOTT of Virginia introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide for more effective enforcement of the Federal prohibition on the interstate shipment of stolen property, 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 “E-fencing Enforcement
5 Act of 2009”.

6 **SEC. 2. FINDING AND DECLARATION.**

7 The Congress finds and declares that—

1 (1) the knowing participation, including by will-
2 ful blindness, in a scheme to fence specific goods the
3 participant knows are stolen, if the scheme involves
4 the shipment of those goods in interstate or foreign
5 commerce, including a knowing participation by pro-
6 viding a marketplace through the Internet for those
7 goods, is a violation of section 2314 of title 18,
8 United States Code, and should be vigorously pros-
9 ecuted by the Department of Justice; and

10 (2) the Department of Justice should normally
11 consider compliance with this Act as a negation of
12 culpability under that section.

13 **SEC. 3. E-FENCING ENFORCEMENT.**

14 (a) IMPROVING ENFORCEMENT.—Chapter 113 of
15 title 18, United States Code, is amended by adding at the
16 end the following:

17 **“§ 2324. E-fencing enforcement**

18 “(a) DUTY TO PROVIDE INFORMATION.—It shall be
19 the duty of each online marketplace provider to disclose
20 contact information for any high volume seller to any in-
21 quirer with standing under this section to seek that infor-
22 mation.

23 “(b) DUTY TO RETAIN INFORMATION ABOUT HIGH
24 VOLUME SELLERS.—It shall be the duty of each online
25 marketplace provider to retain contact information for

1 three years after receipt of that information from high vol-
2 ume seller.

3 “(c) TAKE-DOWN REQUIREMENT.—Upon the request
4 of a recipient of contact information under this section,
5 it shall be the duty of the provider to determine, based
6 on information reasonably available to it or that could be
7 obtained by the provider without undue expense, whether
8 the goods or items were lawfully acquired. If the provider
9 determines that there is good reason to believe the goods
10 or items were unlawfully acquired, it shall be the duty of
11 the provider to preclude access by the high volume seller
12 to the online marketplace with respect to those goods or
13 items.

14 “(d) CIVIL ACTION FOR FAILURE TO COMPLY.—Any
15 person aggrieved by a failure of an Internet marketplace
16 provider to comply with this section may, in a civil action,
17 obtain appropriate relief.

18 “(e) DEFINITIONS.—In this section—

19 “(1) the term ‘online marketplace’ means an
20 Internet site where persons other than the operator
21 of the Internet site can enter into transactions for
22 the sale of goods or other items if—

23 “(A) the goods or items are promoted
24 through inclusion in search results displayed
25 within the site; and

1 “(B) the operator of the site has the con-
2 tractual right to supervise those transactions
3 and a financial interest in the sale of the goods
4 or items;

5 “(2) the term ‘contact information’ means the
6 name, telephone number, and address at which legal
7 process could be served;

8 “(3) the term ‘high volume seller’ means any
9 person who, through the online marketplace, sells or
10 offers for sale goods or items—

11 “(A) of a value of \$5,000 or more in any
12 single offering; or

13 “(B) of a value of \$12,000 or more in one
14 or more offerings during the course of the pre-
15 ceding 365 days; and

16 “(4) the term ‘inquirer with standing under this
17 section to seek’ means any person who provides to
18 the online marketplace provider a signed report
19 made to or received from a criminal law enforcement
20 agency reporting the unsolved theft from that person
21 during the preceding 365 days of goods matching
22 the description of those offered on the online mar-
23 ketplace after the theft.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of chapter 113 of title 18 , United States

- 1 Code , is amended by adding at the end the following new
- 2 item:

“2324. E-fencing enforcement.”.

