

113TH CONGRESS  
1ST SESSION

# H. R. 2645

To prohibit providers of social media services from using self-images uploaded by minors for commercial purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2013

Mr. DUNCAN of Tennessee (for himself and Ms. ROS-LEHTINEN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To prohibit providers of social media services from using self-images uploaded by minors for commercial 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 “Forbidding Advertise-  
5       ment Through Child Exploitation Act of 2013”, or the  
6       “FACE Act of 2013”.

1 **SEC. 2. PROHIBITION ON COMMERCIAL USE BY SOCIAL**  
2 **MEDIA SERVICES OF UPLOADED SELF-IM-**  
3 **AGES OF MINORS.**

4 (a) IN GENERAL.—A provider of a social media serv-  
5 ice may not intentionally or knowingly use for a commer-  
6 cial purpose a self-image uploaded to such service by a  
7 minor.

8 (b) REGULATIONS.—The Federal Trade Commission  
9 may promulgate regulations under section 553 of title 5,  
10 United States Code, to implement this section.

11 **SEC. 3. APPLICATION AND ENFORCEMENT.**

12 (a) GENERAL APPLICATION.—The requirements of  
13 section 2 and the regulations promulgated under such sec-  
14 tion apply, according to their terms, to those persons,  
15 partnerships, and corporations over which the Federal  
16 Trade Commission has authority pursuant to section  
17 5(a)(2) of the Federal Trade Commission Act (15 U.S.C.  
18 45(a)(2)).

19 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
20 SION.—

21 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
22 TICES.—A violation of section 2 or a regulation pro-  
23 mulgated under such section shall be treated as an  
24 unfair or deceptive act or practice in violation of a  
25 regulation under section 18(a)(1)(B) of the Federal

1 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) re-  
2 garding unfair or deceptive acts or practices.

3 (2) POWERS OF COMMISSION.—The Federal  
4 Trade Commission shall enforce section 2 and the  
5 regulations promulgated under such section in the  
6 same manner, by the same means, and with the  
7 same jurisdiction, powers, and duties as though all  
8 applicable terms and provisions of the Federal Trade  
9 Commission Act (15 U.S.C. 41 et seq.) were incor-  
10 porated into and made a part of this Act. Any per-  
11 son who violates section 2 or a regulation promul-  
12 gated under such section shall be subject to the pen-  
13 alties and entitled to the privileges and immunities  
14 provided in the Federal Trade Commission Act.

15 (c) ENFORCEMENT BY STATE ATTORNEYS GEN-  
16 ERAL.—

17 (1) IN GENERAL.—In any case in which the at-  
18 torney general of a State, or an official or agency of  
19 a State, has reason to believe that an interest of the  
20 residents of such State has been or is threatened or  
21 adversely affected by an act or practice in violation  
22 of section 2 or a regulation promulgated under such  
23 section, the State, as *parens patriae*, may bring a  
24 civil action on behalf of the residents of the State in

1 an appropriate State court or an appropriate district  
2 court of the United States to—

3 (A) enjoin such act or practice;

4 (B) enforce compliance with such section  
5 or such regulation;

6 (C) obtain damages, restitution, or other  
7 compensation on behalf of residents of the  
8 State; or

9 (D) obtain such other legal and equitable  
10 relief as the court may consider to be appro-  
11 priate.

12 (2) NOTICE.—Before filing an action under this  
13 subsection, the attorney general, official, or agency  
14 of the State involved shall provide to the Federal  
15 Trade Commission a written notice of such action  
16 and a copy of the complaint for such action. If the  
17 attorney general, official, or agency determines that  
18 it is not feasible to provide the notice described in  
19 this paragraph before the filing of the action, the at-  
20 torney general, official, or agency shall provide writ-  
21 ten notice of the action and a copy of the complaint  
22 to the Federal Trade Commission immediately upon  
23 the filing of the action.

24 (3) AUTHORITY OF FEDERAL TRADE COMMIS-  
25 SION.—On receiving notice under paragraph (2) of

1 an action under this subsection, the Federal Trade  
2 Commission shall have the right—

3 (A) to intervene in the action;

4 (B) upon so intervening, to be heard on all  
5 matters arising therein; and

6 (C) to file petitions for appeal.

7 (4) RULE OF CONSTRUCTION.—For purposes of  
8 bringing a civil action under this subsection, nothing  
9 in this Act shall be construed to prevent an attorney  
10 general, official, or agency of a State from exercising  
11 the powers conferred on the attorney general, offi-  
12 cial, or agency by the laws of such State to conduct  
13 investigations, administer oaths and affirmations, or  
14 compel the attendance of witnesses or the production  
15 of documentary and other evidence.

16 **SEC. 4. EFFECT ON STATE LAW.**

17 Nothing in this Act preempts any provision of law  
18 of a State or a political subdivision of a State that is more  
19 protective with respect to commercial use of self-images  
20 uploaded by minors to social media services.

21 **SEC. 5. DEFINITIONS.**

22 In this Act:

23 (1) SELF-IMAGE.—The term “self-image”  
24 means, with respect to an individual, an image that  
25 depicts the individual.

1           (2) SOCIAL MEDIA SERVICE.—The term “social  
2       media service” means any online service that allows  
3       an individual to upload, store, and manage personal  
4       content in order to share the content with other in-  
5       dividuals.

6 **SEC. 6. EFFECTIVE DATE.**

7       This Act shall take effect on the date that is 6  
8       months after the date of the enactment of this Act.

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