

HR 2929 IH

108th CONGRESS  
1st Session

**H. R. 2929**

To protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES  
July 25, 2003**

Mrs. BONO (for herself and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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**A BILL**

To protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Safeguard Against Privacy Invasions Act'.

**SEC. 2. FTC AUTHORITY TO REGULATE TRANSMISSION OF SPYWARE PROGRAMS.**

(a) PROHIBITION OF TRANSMISSION WITHOUT CONSENT- The Federal Trade Commission shall, by regulation, prohibit the transmission of a spyware program to a covered computer by means of the Internet, unless the user of the covered computer expressly consents to such transmission in response to a clear and conspicuous request for such consent or through an affirmative request for such transmission.

(b) TRANSMISSION PURSUANT TO LICENSE AGREEMENTS- The Federal Trade Commission shall, by regulation, establish requirements for the transmission of a spyware program to a covered computer, by means of the Internet, in any case in which the transmission of the spyware program, or any information, program, or communication together or in connection with which the spyware program is transmitted, requires any affirmative action on the part of the user of the covered computer to agree to a license, contract, or other agreement which is made available on the World Wide Web, as follows:

(1) LOCATION OF LICENSE AGREEMENT- The terms of such license, contract, or

agreement shall be set forth on a World Wide Web page and the mechanism by which the user of the covered computer agrees to such license, contract, or agreement shall be included on the same page.

(2) NOTICE- The terms of the license, contract, or other agreement shall--

(A) include provisions, that are clearly stated and prominently displayed, which specify that agreement to such license, contract, or other agreement constitutes consent to transmission of the spyware for purposes of subsection (a); and

(B) clearly explain the purpose of including the spyware.

(3) IDENTIFICATION- The name of the person or entity transmitting the spyware, a valid physical street address of such person or entity, and a functioning return electronic mail address for such person or entity shall be included on the World Wide Web page referred to in paragraph (1).

(c) NOTICE OF COLLECTION OF PERSONALLY IDENTIFIABLE INFORMATION- The Federal Trade Commission shall, by regulation, prohibit the use of any spyware program that is transmitted to a covered computer by means of the Internet for collecting any personally identifiable information from the covered computer, unless notice that the program will be used for such collection is provided--

(1) in any license, contract, or other agreement covering the spyware program or the information, program, or communication together with which, or in connection with which, the spyware program is transmitted; and

(2) in another prominent location, as the Commission shall provide.

### **SEC. 3. ENFORCEMENT.**

(a) ENFORCEMENT THROUGH FTC ACT-

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE- A violation of any provision of this Act or any regulation issued under this Act is an unfair or deceptive act or practice unlawful under section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)).

(2) GUIDELINES AND OPINIONS- In order to assist in compliance with this Act, the Federal Trade Commission may issue generally applicable guidelines and, upon request, advisory opinions with respect to specific types of acts or practices that would, or would not, comply with this Act.

(b) CRIMINAL PENALTIES- Whoever--

(1) violates section 2(c) or the regulations issued under such section, or

(2) knowingly violates any other provision of this Act or any regulation issued under this Act,

shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.

### **SEC. 4. DEFINITIONS**

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For purposes of this Act:

- (1) **COMPUTER; COVERED COMPUTER-** The terms `computer' and `covered computer' have the meanings given such terms in section 1030(e) of title 18, United States Code.
- (2) **INTERNET-** The term `Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.
- (3) **SPYWARE PROGRAM-** The term `spyware program' means any computer program or software that can be used to transmit from a computer, or that has the capability of so transmitting, by means of the Internet and without any action on the part of the user of the computer to initiate such transmission, information regarding the user of the computer, regarding the use of the computer, or that is stored on the computer. In issuing regulations to carry out this paragraph, the Commission shall distinguish spyware programs from other commonly used computer programs used to share information among computers in an organized network of computers.
- (4) **PAGE-** The term `page' means, with respect to the World Wide Web, a location that has a single Uniform Resource Locator or other single location with respect to the Internet, as the Commission may prescribe.
- (5) **PERSONALLY IDENTIFIABLE INFORMATION-** The term `personally identifiable information' does not include any record of aggregate data that does not identify particular persons, particular computers, particular users of computers, or particular email addresses or other locations of computers with respect to the Internet.

**SEC. 5. REGULATIONS.**

The Commission shall issue regulations necessary to carry out this Act not later than 90 days after the date of the enactment of this Act.

*END*