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(Original Signature of Member)

110TH CONGRESS
2D SESSION

H. R.

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

Mr. SCOTT of Virginia (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on

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 2008”.

1 **SEC. 2. FINDING AND DECLARATION.**

2 The Congress finds and declares that—

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

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

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

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

19 **“§ 2323. E-fencing Enforcement**

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

25 “(b) DUTY TO RETAIN INFORMATION ABOUT HIGH
26 VOLUME SELLERS.—It shall be the duty of each online

1 marketplace provider to retain contact information for
2 three years after receipt of that information from high vol-
3 ume seller.

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

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

19 “(e) DEFINITIONS.—In this section—

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

1 “(A) the goods or items are promoted
2 through inclusion in search results displayed
3 within the site; and

4 “(B) the operator of the site has a finan-
5 cial interest in the sale of the goods or items;

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

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

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

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

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