



AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.**

**S. 1885**

To require the Federal Trade Commission, with the concurrence of the Secretary of Health and Human Services acting through the Surgeon General, to implement a mental health warning label on covered platforms, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. FETTERMAN

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Stop the Scroll Act”.
- 5 **SEC. 2. DEFINITIONS.**
- 6 In this Act:
- 7 (1) COMMISSION.—The term “Commission”
- 8 means the Federal Trade Commission.
- 9 (2) KNOW OR KNOWS.—The term “know” or
- 10 “knows” means to have actual knowledge or knowl-

1 edge fairly implied on the basis of objective cir-  
2 cumstances.

3 (3) MINOR.—The term “minor” means an indi-  
4 vidual who is under 18 years of age.

5 (4) PERSONAL DATA.—The term “personal  
6 data” has the same meaning as the term “personal  
7 information” as defined in section 1302 of the Chil-  
8 dren’s Online Privacy Protection Act (15 U.S.C.  
9 6501), or any successor definition.

10 (5) SOCIAL MEDIA PLATFORM.—

11 (A) IN GENERAL.—The term “social media  
12 platform” means a website, online service, on-  
13 line application, or mobile application—

14 (i) that serves the public; and

15 (ii) that primarily provides a commu-  
16 nity forum for user-generated content, in-  
17 cluding messages, videos, images, games,  
18 and audio files among users where such  
19 content is primarily intended for viewing,  
20 resharing, or platform-enabled distributed  
21 social endorsement or comment.

22 (B) EXCLUSION.—The term “social media  
23 platform” shall not include the following:

24 (i) A provider of broadband internet  
25 access service (as described in section

1 8.1(b) of title 47, Code of Federal Regula-  
2 tions, or successor regulation).

3 (ii) Electronic mail.

4 (iii) An online service, application, or  
5 website—

6 (I) that consists primarily of con-  
7 tent that is not user-generated, but is  
8 preselected by the provider of such on-  
9 line service, application, or website;  
10 and

11 (II) for which any chat, com-  
12 ment, or interactive functionality is  
13 incidental to, directly related to, or  
14 dependent on the provision of the con-  
15 tent described in subclause (I).

16 (iv) A wireless messaging service, in-  
17 cluding such a service provided through  
18 short message service or multimedia mes-  
19 saging protocols, that is not a component  
20 of, or linked to, a social media platform  
21 and where the predominant or exclusive  
22 function of the messaging service is direct  
23 messaging consisting of the transmission of  
24 text, photos, or videos that are sent by  
25 electronic means, where messages are

1 transmitted from the sender to the recipi-  
2 ent and are not posted publicly or within  
3 a social media platform.

4 (v) A virtual private network or simi-  
5 lar service that exists solely to route inter-  
6 net traffic between locations.

7 (vi) A website, online service, online  
8 application, or mobile application developed  
9 or operated by a library (as defined in sec-  
10 tion 213 of the Library Services and Tech-  
11 nology Act (20 U.S.C. 9122)).

12 (vii) A platform that, as its primary  
13 function for consumers, provides or facili-  
14 tates any of the following:

15 (I) The purchase and sale of  
16 commercial goods.

17 (II) Teleconferencing or  
18 videoconferencing services that allow  
19 reception and transmission of audio or  
20 video signals for real-time communica-  
21 tion, provided that the real-time com-  
22 munication is initiated by using a  
23 unique link or identifier to facilitate  
24 access.

1 (III) Crowd-sourced reference  
2 guides such as encyclopedias and dic-  
3 tionaries.

4 (IV) Cloud storage, file sharing,  
5 or file collaboration services, including  
6 such services that allow collaborative  
7 editing by invited users.

8 (V) The playing of video games.

9 (VI) Business, product, or travel  
10 information, including user reviews or  
11 rankings of such businesses, products,  
12 or other travel information.

13 (VII) Educational information,  
14 experiences, training, or instruction  
15 provided to build knowledge, skills, or  
16 a craft, district-sanctioned or school-  
17 sanctioned learning management sys-  
18 tems and school information systems  
19 for the purposes of schools conveying  
20 content related to the education of  
21 students, or services or services on be-  
22 half of or in support of any public or  
23 private—

24 (aa) early childhood edu-  
25 cation program or preschool that

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1 provides for the care, develop-  
2 ment, and education of infants,  
3 toddlers, or young children who  
4 are not yet enrolled in kinder-  
5 garten;

6 (bb) elementary school or  
7 secondary school, as such terms  
8 are defined in section 8101 of the  
9 Elementary and Secondary Edu-  
10 cation Act of 1965 (20 U.S.C.  
11 7801);

12 (cc) school providing career  
13 and technical education (as de-  
14 fined in section 3 of the Carl D.  
15 Perkins Career and Technical  
16 Education Act of 2006 (20  
17 U.S.C. 2302));

18 (dd) school providing adult  
19 education and literacy activities  
20 (as defined in section 203 of the  
21 Adult Education and Family Lit-  
22 eracy Act (29 U.S.C. 3272)); or

23 (ee) institution of higher  
24 education (as defined in section  
25 101, and subparagraphs (A) and

1 (B) of section 102(a)(1), of the  
2 Higher Education Act of 1965  
3 (20 U.S.C. 1001, 1002(a)(1))).  
4 (VIII) Professional networking or  
5 professional development.

6 (6) USER.—The term “user” means, with re-  
7 spect to a social media platform, an individual who  
8 registers an account on, creates a profile on, or oth-  
9 erwise accesses the social media platform.

10 **SEC. 3. WARNING LABEL.**

11 (a) IN GENERAL.—A social media platform shall—

12 (1) clearly and conspicuously display to each  
13 user who the social media platform knows is a minor  
14 a mental health warning label (referred to in this  
15 section as a “covered label”)—

16 (A) each calendar day that the minor ac-  
17 cesses the social media platform; and

18 (B) after every 3 hours of continuous use;  
19 and

20 (2) cause the covered label to disappear only if  
21 the minor —

22 (A) exits the social media platform; or

23 (B) affirmatively dismisses the warning  
24 label.

1 (b) CONTENT OF COVERED LABEL.—A covered label  
2 shall—

3 (1) include, clearly and conspicuously, the fol-  
4 lowing text: “The Surgeon General has warned that  
5 while social media may have benefits for some young  
6 users, social media is associated with significant  
7 mental health harms and has not been proven safe  
8 for young users.”; and

9 (2) provide access to mental health resources,  
10 which may include the 988 Suicide and Crisis Life-  
11 line.

12 (c) RESTRICTIONS ON FORM.—A social media plat-  
13 form may not—

14 (1) include a covered label exclusively through  
15 a hyperlink or in the terms and conditions of the so-  
16 cial media platform;

17 (2) include extraneous information in a covered  
18 label that obscures the visibility or prominence of  
19 the covered label; or

20 (3) allow a user to disable a covered label, ex-  
21 cept as provided in subsection (a).

22 **SEC. 4. ENFORCEMENT.**

23 (a) ENFORCEMENT BY THE COMMISSION.—

24 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
25 TICES.—A violation of this Act shall be treated as

1 a violation of a rule defining an unfair or deceptive  
2 act or practice prescribed under section 18(a)(1)(B)  
3 of the Federal Trade Commission Act (15 U.S.C.  
4 57a(a)(1)(B)).

5 (2) POWERS OF THE COMMISSION.—

6 (A) IN GENERAL.—The Commission shall  
7 enforce this Act in the same manner, by the  
8 same means, and with the same jurisdiction,  
9 powers, and duties as though all applicable  
10 terms and provisions of the Federal Trade  
11 Commission Act (15 U.S.C. 41 et seq.) were in-  
12 corporated into and made a part of this Act.

13 (B) PRIVILEGES AND IMMUNITIES.—Any  
14 person who violates this Act shall be subject to  
15 the penalties and entitled to the privileges and  
16 immunities provided in the Federal Trade Com-  
17 mission Act (15 U.S.C. 41 et seq.).

18 (C) AUTHORITY PRESERVED.—Nothing in  
19 this Act shall be construed to limit the author-  
20 ity of the Commission under any other provi-  
21 sion of law.

22 (b) ENFORCEMENT BY STATES.—

23 (1) AUTHORIZATION.—Subject to paragraph  
24 (2), in any case in which the attorney general of a  
25 State has reason to believe that an interest of the

1 residents of the State has been or is threatened or  
2 adversely affected by the engagement of a social  
3 media platform in a practice that violates this Act,  
4 the attorney general of the State may, as *parens*  
5 *patriae*, bring a civil action against the social media  
6 platform on behalf of the residents of the State in  
7 an appropriate district court of the United States  
8 to—

9 (A) enjoin that practice;

10 (B) enforce compliance with this Act;

11 (C) on behalf of residents of the States,  
12 obtain damages, restitution, or other compensa-  
13 tion, each of which shall be distributed in ac-  
14 cordance with State law; or

15 (D) obtain such other relief as the court  
16 may consider to be appropriate.

17 (2) RIGHTS OF THE COMMISSION.—

18 (A) NOTICE TO THE COMMISSION.—

19 (i) IN GENERAL.—The attorney gen-  
20 eral of a State shall notify the Commission  
21 in writing that the attorney general in-  
22 tends to bring a civil action under para-  
23 graph (1) before filing the civil action.

24 (ii) CONTENTS.—The notification re-  
25 quired under clause (i) with respect to a

1 civil action shall include a copy of the com-  
2 plaint to be filed to initiate the civil action.

3 (iii) EXCEPTION.—If the attorney  
4 general of a State determines that it is not  
5 feasible to provide the notification required  
6 under clause (i) before filing a civil action  
7 under paragraph (1), the attorney general  
8 shall notify the Commission immediately  
9 upon filing the civil action.

10 (B) INTERVENTION BY THE COMMIS-  
11 SION.—Upon receiving notice under subpara-  
12 graph (A), the Commission may—

13 (i) intervene in any civil action  
14 brought by the attorney general of a State  
15 under paragraph (1); and

16 (ii) upon intervening—

17 (I) be heard on all matters aris-  
18 ing in the civil action; and

19 (II) file petitions for appeal in  
20 the civil action.

21 (3) INVESTIGATORY POWERS.—Nothing in this  
22 subsection may be construed to prevent the attorney  
23 general of a State from exercising the powers con-  
24 ferred on the attorney general by the laws of the  
25 State to—

- 1 (A) conduct investigations;
- 2 (B) administer oaths or affirmations; or
- 3 (C) compel the attendance of witnesses or
- 4 the production of documentary or other evi-
- 5 dence.

6 (4) PREEMPTIVE ACTION BY THE COMMIS-

7 SION.—In any case in which an action is instituted

8 by or on behalf of the Commission for a violation of

9 this Act, no State may, during the pendency of such

10 action, bring a separate civil action under paragraph

11 (1) against any defendant named in the complaint in

12 the action instituted by the Commission or on behalf

13 of the Commission for the same violation.

14 (5) VENUE; SERVICE OF PROCESS.—

15 (A) VENUE.—Any action brought under

16 paragraph (1) may be brought in—

17 (i) the district court of the United

18 States that meets applicable requirements

19 relating to venue under section 1391 of

20 title 28, United States Code; or

21 (ii) another court of competent juris-

22 diction.

23 (B) SERVICE OF PROCESS.—In an action

24 brought under paragraph (1), process may be

25 served in any district in which the defendant—

1 (i) is an inhabitant; or

2 (ii) may be found.

3 (6) ACTIONS BY OTHER STATE OFFICIALS.—In  
4 addition to a civil action brought by an attorney  
5 general under paragraph (1), any other consumer  
6 protection officer of a State who is authorized by the  
7 State to do so may bring a civil action under para-  
8 graph (1), subject to the same requirements and  
9 limitations that apply under this subsection to a civil  
10 action brought by an attorney general.

11 **SEC. 5. RELATIONSHIP TO OTHER LAWS.**

12 (a) PREEMPTION OF STATE LAWS.—The provisions  
13 of this Act shall preempt any State law, rule, or regulation  
14 only to the extent that such State law, rule, or regulation  
15 conflicts with a provision of this Act. Nothing in this Act  
16 shall be construed to prohibit a State from enacting a law,  
17 rule, or regulation that provides greater protection to mi-  
18 nors.

19 (b) FEDERAL LAW PRESERVATION.—Nothing in this  
20 Act shall be construed to—

21 (1) affect the application of—

22 (A) section 444 of the General Education  
23 Provisions Act (commonly known as the “Fam-  
24 ily Educational Rights and Privacy Act of

1 1974”) (20 U.S.C. 1232g) or other Federal or  
2 State laws governing student privacy; or

3 (B) the Children’s Online Privacy Protec-  
4 tion Act of 1998 (15 U.S.C. 6501 et seq.) or  
5 any rule or regulation promulgated under such  
6 Act; or

7 (2) authorize any action that would conflict  
8 with section 18(h) of the Federal Trade Commission  
9 Act (15 U.S.C. 57a(h)).

10 **SEC. 6. DETERMINATION OF WHETHER A SOCIAL MEDIA**  
11 **PLATFORM HAS KNOWLEDGE FAIRLY IM-**  
12 **PLIED ON THE BASIS OF OBJECTIVE CIR-**  
13 **CUMSTANCES THAT AN INDIVIDUAL IS A**  
14 **MINOR.**

15 (a) RULES OF CONSTRUCTION.—For purposes of en-  
16 forcing this Act, in making a determination as to whether  
17 a social media platform has knowledge fairly implied on  
18 the basis of objective circumstances that a user is a minor,  
19 the Commission or the attorney general of a State, as ap-  
20 plicable, shall rely on competent and reliable evidence, tak-  
21 ing into account the totality of the circumstances, includ-  
22 ing whether a reasonable and prudent person under the  
23 circumstances would have known that the user is a minor.

1 (b) PROTECTIONS FOR PRIVACY.—Nothing in this  
2 Act, including a determination described in subsection (a),  
3 shall be construed to require a social media platform to—

4 (1) implement an age gating or age verification  
5 functionality; or

6 (2) affirmatively collect any personal data with  
7 respect to the age of users that the social media  
8 platform is not already collecting in the normal  
9 course of business.

10 (c) RESTRICTION ON USE AND RETENTION OF PER-  
11 SONAL DATA.—If a social media platform or a third party  
12 acting on behalf of a social media platform voluntarily col-  
13 lects personal data for the purpose of complying with this  
14 Act, the social media platform or a third party shall not—

15 (1) use any personal data collected for a pur-  
16 pose other than for complying with the obligations  
17 under this Act; or

18 (2) retain any personal data collected from a  
19 user for longer than is necessary to comply with the  
20 obligations under this Act or longer than is mini-  
21 mally necessary to demonstrate compliance with this  
22 Act.

23 **SEC. 7. EFFECT OF COMPLIANCE WITH THIS ACT.**

24 Nothing in this Act, including the requirement to dis-  
25 play a warning label or the fact that a user dismissed or

1 ignored a warning label under this Act, shall serve as a  
2 defense for a violation of any Federal or State law, other  
3 than a claim brought for a violation of this Act.

4 **SEC. 8. EFFECTIVE DATE.**

5 This Act shall take effect on the date that is 1 year  
6 after the date of enactment of this Act.