

FILE s1482.is S 1482 IS

105th CONGRESS

1st Session

To amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

November 8, 1997

Mr. COATS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, and for other purposes. [Italic->] Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [<-Italic]

SECTION 1. PROHIBITION ON COMMERCIAL DISTRIBUTION ON THE WORLD WIDE WEB OF MATERIAL THAT IS HARMFUL TO MINORS.

(a) PROHIBITION

(1) IN GENERAL- Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended-

(A) by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively; and

(B) by inserting after subsection (d) the following new subsection (e):

(e)(1) Whoever in interstate or foreign commerce in or through the World Wide Web is engaged in the business of the commercial distribution of material that is harmful to minors shall restrict access to such material by persons under 17 years of age.

(2) Any person who violates paragraph (1) shall be fined not more than \$50,000, imprisoned not more than six months, or both.

(3) In addition to the penalties under paragraph (2), whoever intentionally violates paragraph (1) shall be subject to a fine of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

(4) In addition to the penalties under paragraphs (2) and (3), whoever violates paragraph (1) shall be subject to a civil fine of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

`(5) It is an affirmative defense to prosecution under this subsection that the defendant restricted access to material that is harmful to minors by persons under 17 years of age by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number or in accordance with such other procedures as the Commission may prescribe.

`(6) This subsection may not be construed to authorize the Commission to regulate in any manner the content of any information provided on the World Wide Web.

`(7) For purposes of this subsection: `(A) The term `material that is harmful to minors' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that-- `(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; `(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and `(iii) lacks serious literary, artistic, political, or scientific value. `(B) The terms `sexual act' and `sexual contact' have the meanings assigned such terms in section 2246 of title 18, United States Code.'

(2) CONFORMING AMENDMENT- Subsection (g) of such section, as so redesignated, is amended by striking `(e), or (f)' and inserting `(f), or (g)'

(b) AVAILABILITY ON INTERNET OF DEFINITION OF MATERIAL THAT IS HARMFUL TO MINORS- The Attorney General, in the case of the Internet web site of the Department of Justice, and the Federal Communications Commission, in the case of the Internet web site of the Commission, shall each post or otherwise make available on such web site such information as is necessary to inform the public of the meaning of the term `material that is harmful to minors' under section 223(e) of the Communications Act of 1934, as amended by subsection (a) of this section.