

[DISCUSSION DRAFT]117TH CONGRESS
1ST SESSION**H. R.** _____

To amend the Federal Food, Drug, and Cosmetic Act to provide a process to lock and suspend domain names used to facilitate the online sale of drugs illegally, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MCKINLEY introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to provide a process to lock and suspend domain names used to facilitate the online sale of drugs illegally, 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 “_____ Act
5 of 2021”.

1 **SEC. 2. DOMAIN NAMES USED TO FACILITATE THE ONLINE**
2 **SALE OF DRUGS ILLEGALLY.**

3 (a) IN GENERAL.—Subchapter A of chapter V of the
4 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351
5 et seq.) is amended by adding at the end the following:

6 **“SEC. 524B. DOMAIN NAMES USED TO FACILITATE THE ON-**
7 **LINE SALE OF DRUGS ILLEGALLY.**

8 “(a) IN GENERAL.—A registry operator or registrar
9 shall—

10 “(1) not later than 24 hours after receipt of a
11 notification from a trusted notifier respecting a do-
12 main name used to facilitate the online sale of drugs
13 illegally that is under the control of the registry op-
14 erator or registrar, lock the domain name; and

15 “(2) not later than 7 days after receipt of such
16 notification, suspend the domain name.

17 “(b) NOTICE.—For purposes of subsection (a), a no-
18 tification shall include, at a minimum—

19 “(1) the domain name being reported;

20 “(2) the date the alleged violations described in
21 subsection (e)(2) were observed;

22 “(3) a summary of the alleged violations; and

23 “(4) a statement that evidence of offering drugs
24 illegally, such as a screenshot, has been retained,
25 and is available to be shared with the registry oper-
26 ator or registrar.

1 “(c) REGISTRANT APPEAL.—

2 “(1) IN GENERAL.—Any registrant whose do-
3 main name is locked and suspended pursuant to
4 subsection (a) may appeal such action to the trusted
5 notifier pursuant to paragraph (2). The domain
6 name shall remain locked and suspended until a
7 final determination of the merits of the appeal has
8 been made.

9 “(2) APPEALS.—

10 “(A) IN GENERAL.—In bringing such an
11 appeal, the registrant for the locked and sus-
12 pended domain name may do any of the fol-
13 lowing:

14 “(i) Contact the applicable registry
15 operator or registrar to request informa-
16 tion regarding the business name, or per-
17 sonal name if the trusted notifier is not a
18 business, and the email address, of the
19 trusted notifier who submitted the notifica-
20 tion regarding the domain name.

21 “(ii) Dispute the notification by sub-
22 mitting the following to the applicable
23 trusted notifier:

24 “(I) A copy of the registrant’s
25 pharmacy licenses for all jurisdictions

1 where it offered to ship prescription
2 medicines at the time of the notifica-
3 tion where such licensure is legally re-
4 quired in such jurisdiction, or a copy
5 of registrant’s affiliated pharmacy’s li-
6 censes for all jurisdictions where the
7 registrant offered to facilitate the
8 shipment of prescription medicines at
9 the time of the notification where
10 such licensure is legally required in
11 such jurisdiction.

12 “(II) The license information of
13 the medical practitioner involved in
14 issuing the prescription facilitated in
15 part by the registrant’s domain name
16 where practitioner licensure is legally
17 required in such jurisdiction.

18 “(B) PROVISION OF INFORMATION.—With-
19 in 15 days after receiving a request under sub-
20 paragraph (A)(i), a registry operator or reg-
21 istrar shall provide the requested information.

22 “(C) INVESTIGATION.—The applicable
23 trusted notifier shall—

24 “(i) conduct a reasonable investigation
25 regarding the registrant and its domain

1 name to determine whether notification
2 under subsection (a) was improper; and

3 “(ii) in conducting such investigation,
4 consider the information provided by the
5 registrant under subparagraph (A).

6 “(D) SUCCESSFUL APPEAL.—If the appeal
7 is successful, the registry operator or registrar
8 shall lift the suspension and unlock the domain
9 name within 15 days.

10 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion prohibits a registry operator or registrar from locking
12 and suspending a domain name used to facilitate the on-
13 line sale of drugs illegally before receipt of a notification
14 under this section from a trusted notifier.

15 “(e) DEFINITIONS.—In this section:

16 “(1) DOMAIN NAME.—The term ‘domain name’
17 means a name that—

18 “(A) identifies a specific location on the
19 internet that belongs to a particular person;
20 and

21 “(B) consists of two or more textual seg-
22 ments separated by dots.

23 “(2) DOMAIN NAME USED TO FACILITATE THE
24 ONLINE SALE OF DRUGS ILLEGALLY.—The term ‘do-
25 main name used to facilitate the online sale of drugs

1 illegally’ means a domain name that identifies a lo-
2 cation on the internet that is used to introduce or
3 deliver for introduction into interstate commerce a
4 drug or controlled substance in violation of this Act
5 or the Controlled Substances Act.

6 “(3) LOCK.—The term ‘lock’ means, with re-
7 spect to a domain name, for the registry operator or
8 registrar to systematically prevent the domain name
9 from being updated, transferred, or deleted during
10 the balance of the registration of the domain name,
11 which may be achieved using domain name registra-
12 tion protocols.

13 “(4) PRESCRIPTION DRUG.—The term ‘pre-
14 scription drug’ means a drug subject to section
15 503(b)(1).

16 “(5) REGISTRAR.—The term ‘registrar’ means
17 an organization that—

18 “(A) manages the registration of domain
19 names; and

20 “(B) during the registration process—

21 “(i) verifies that the requested domain
22 name meets registry requirements; and

23 “(ii) submits the name to the appro-
24 priate registry operator.

1 “(6) REGISTRY.—The term ‘registry’ means an
2 authoritative master database of the domain names
3 registered in a top-level domain.

4 “(7) REGISTRY OPERATOR.—The term ‘registry
5 operator’ means an organization that maintains a
6 registry, including by—

7 “(A) receiving requests from registrars to
8 add, delete, or modify domain names; and

9 “(B) making the requested changes in the
10 registry.

11 “(8) SUSPEND.—The term ‘suspend’ means,
12 with respect to a domain name, for the registry op-
13 erator or registrar to systematically disable the
14 functionality of the domain name through a hold or
15 suspension during the balance of the registration of
16 the domain name, which may be achieved using do-
17 main name registration protocols.

18 “(9) TRUSTED NOTIFIER.—The term ‘trusted
19 notifier’ includes the following (and the designees
20 and agents thereof):

21 “(A) The Food and Drug Administration.

22 “(B) The Department of Justice, including
23 the Drug Enforcement Administration.

24 “(C) The Department of Homeland Secu-
25 rity.

1 “(D) A State attorney general.

2 “(E) A State board of pharmacy.

3 “(F) A nonprofit organization with a mem-
4 bership or governance comprised exclusively of
5 representatives of—

6 “(i) agencies or officials specified in
7 any of subparagraphs (A) through (E); or

8 “(ii) similarly positioned (as deter-
9 mined by the Commissioner of Food and
10 Drugs) agencies or officials.

11 “(G) Any entity currently under contract
12 or in a public-private partnership with the Food
13 and Drug Administration or the Drug Enforce-
14 ment Agency to share information related to
15 online drug sales.

16 “(H) Any other entity identified by the
17 Food and Drug Administration as a trusted no-
18 tifier for purposes of this section, taking into
19 consideration, at minimum, whether the enti-
20 ty—

21 “(i) is registered to do business in the
22 United States;

23 “(ii) agrees to share notification data,
24 upon request, with the Food and Drug Ad-

1 ministration and the Drug Enforcement
2 Agency;

3 “(iii) does not knowingly or with will-
4 ful ignorance approve or do business with
5 entities that fail to adhere to the regula-
6 tions of the Food and Drug Administration
7 or the Drug Enforcement Agency; and

8 “(iv) has published on the website of
9 such entity policies and procedures for how
10 the entity will issue notifications under
11 subsection (a).”.

12 (b) PROHIBITED ACT.—Section 301 of the Federal
13 Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amend-
14 ed by adding at the end the following:

15 “(fff) The failure by a registry operator or registrar
16 to lock and suspend any domain name in its control in
17 violation of section 524B.”.

18 (c) APPLICABILITY.—Sections 301(fff) and 524B of
19 the Federal Food, Drug, and Cosmetic Act, as added by
20 this section, shall apply beginning on the date that is 60
21 days after the date of enactment of this Act.