119TH CONGRESS
2D SESSION

# S. _____

To prohibit stealth bots, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. WICKER introduced the following bill; which was read twice and referred to the Committee on _____

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# A BILL

To prohibit stealth bots, 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 ''Stealth Bot Prohibition Act''.

**SEC. 2. PROHIBITION OF STEALTH BOTS.**

(a) PROHIBITION.—A person may not—

(1) deploy, direct, or cause to be deployed a stealth bot to access a website, digital platform, or online service in a manner that is reasonably likely to damage, impair, or burden the technical or com-

mercial operation of a website or other internet service; or

(2) intentionally misrepresent, conceal, or obscure the nature of the bot to appear as a human user for use in connection with a generative AI model or service.

(b) ENFORCEMENT.—

(1) ENFORCEMENT BY THE COMMISSION.—

(A) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(B) POWERS OF THE COMMISSION.—

(i) IN GENERAL.—The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(ii) PRIVILEGES AND IMMUNITIES.—Except as provided in clause (iii), any per-

son who violates this Act shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(iii) PENALTY.—The penalty for each violation of subsection (a) may not exceed $53,000 (as adjusted on January 1 of each year by the percentage increase (if any), during the preceding 12-month period, in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics).

(iv) AUTHORITY PRESERVED.—Nothing in this Act shall be construed to limit the authority of the Commission under any other provision of law.

(2) ENFORCEMENT BY STATES.—

(A) AUTHORIZATION.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person in an act or practice that violates this Act, the attorney general of the State may, as

parens patriae, bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(i) enjoin such act or practice;

(ii) enforce compliance with this Act;

(iii) obtain damages, restitution, or other compensation on behalf of residents of the State; or

(iv) obtain such other legal and equitable relief as the court may consider to be appropriate.

(B) RIGHTS OF THE COMMISSION.—

(i) NOTICE TO THE COMMISSION.—

(I) IN GENERAL.—Except as provided in subclause (III), before initiating a civil action under subparagraph (A), the attorney general of a State shall notify the Commission in writing that the attorney general intends to bring such civil action.

(II) CONTENTS.—The notification required by subclause (I) shall include a copy of the complaint to be filed to initiate the civil action.

(III) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notification required by subclause (I) before initiating a civil action under subparagraph (A), the attorney general shall notify the Commission immediately upon instituting the civil action.

(ii) INTERVENTION BY THE COMMISSION.—Upon receiving the notice required by clause (i)(I), the Commission may intervene in the civil action and, upon intervening—

(I) be heard on all matters arising in the civil action; and

(II) file petitions for appeal of a decision in the civil action.

(C) INVESTIGATORY POWERS.—Nothing in this paragraph may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.

(D) PREEMPTIVE ACTION BY THE COMMISSION.—If the Commission has instituted a civil action for a violation of this Act, no State officer may bring an action under subparagraph (A) during the pendency of that action against any defendant named in the complaint of the Commission for any violation of this Act alleged in the complaint.

(E) VENUE; SERVICE OF PROCESS.—

(i) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(ii) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

(I) is an inhabitant; or

(II) may be found.

(c) DEFINITIONS.—In this section:

(1) ARTIFICIAL INTELLIGENCE; AI.—The terms ''artificial intelligence'' and ''AI'' have the meaning given the term ''artificial intelligence'' in section

5002 of the National Artificial Intelligence Initiative Act of 2020 (15 U.S.C. 9401) as of the date of the enactment of this section.

(2) BOT.—The term ''bot'' means software that accesses, retrieves, scans, indexes, scrapes, or otherwise interacts with a website or other internet source, including an online crawler, spider, fetcher, client, user agent, AI agent, or other equivalent tool.

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) GENERATIVE AI.—The term ''generative AI'' means artificial intelligence that is capable of generating content such as code, images, music, text, simulations, 3D renderings of objects, or videos.

(5) JOURNALIST.—The term ''journalist'' means a person who regularly gathers, prepares, collects, photographs, records, writes, edits, reports, investigates, or publishes news or information that concerns local, national, or international events or other matters of public interest for dissemination to the public.

(6) STATE.—The term ''State'' means each of the several States, the District of Columbia, each commonwealth, territory, or possession of the United States, and each Federally recognized Indian Tribe.

(7) STEALTH BOT.—

(A) IN GENERAL.—The term ''stealth bot'' means a bot that accesses, retrieves, scans, indexes, scrapes, or otherwise interacts with a website, digital platform, or online service without prior disclosure of its identity and purpose, in particular by failing to—

(i) identify itself, including through a valid and accurate user-agent string; or

(ii) disclose the specific nature and purpose of the bot, including any proposed use and purpose of page content (including text and data mining, search indexing, inferencing, artificial intelligence development, support, or operations (such as training, fine tuning, retrieval augmented generation)) or other automated processing at the time access is requested and in a format that the website operator can access.

(B) EXCLUSIONS.—The term ''stealth bot'' shall not include a bot that is only used—

(i) to discover, investigate, or collect evidence related to the potential enforcement of other rights;

(ii) by an educational, scientific, or research institution for noncommercial public-information functions, and the person who deploys, directs or causes the bot to be deployed neither knew nor should have known facts or circumstances suggesting the data obtained by the bot was being or is intended to be used in connection with creation or operation of a generative AI offering;

(iii) by any authorized Federal official to conduct lawful intelligence, counter-intelligence, or other national security activities;

(iv) by a journalist for reporting purposes;

(v) for cybersecurity purposes, including identifying online trackers;

(vi) to access information that is made available to the public by a unit of Federal, State, or local government; or

(vii) to investigate pricing practices.

(C) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require the disclosure of the identity and purpose of an indi-

vidual that deploys a bot so long as the individual is not acting in a manner that is reasonably likely to damage, impair, or burden the technical or commercial operation of a website or other internet service.

(d) LIMITATIONS PERIOD, RELATIONSHIP TO OTHER LAWS, AND SEVERABILITY.—

(1) LIMITATIONS PERIOD.—A civil action may not be filed under this section unless the action is commenced within 6 years after the date on which the violation occurred.

(2) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall affect any right, limitation, or remedy available under any other Federal or State law or the United States Constitution.

(e) EFFECTIVE DATE.—This section shall take effect 180 days after the date of the enactment of this Act.