

114TH CONGRESS
2D SESSION

H. R. 5318

To amend the Federal Trade Commission Act to specify certain effects of guidelines, general statements of policy, and similar guidance issued by the Federal Trade Commission.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2016

Mr. POMPEO (for himself, Mr. BURGESS, Mr. BISHOP of Michigan, Mr. MULLIN, Mr. HARPER, Mrs. BLACKBURN, and Mr. LANCE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Federal Trade Commission Act to specify certain effects of guidelines, general statements of policy, and similar guidance issued by the Federal Trade Commission.

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 “Solidifying Habitual
5 and Institutional Explanations of Liability and Defenses
6 Act of 2016” or the “SHIELD Act of 2016”.

1 **SEC. 2. EFFECTS OF GUIDELINES, GENERAL STATEMENTS**
2 **OF POLICY, AND SIMILAR GUIDANCE.**

3 Section 18(a) of the Federal Trade Commission Act
4 (15 U.S.C. 57a(a)) is amended by adding at the end the
5 following:

6 “(3)(A) No guidelines, general statements of policy,
7 or similar guidance related either to unfair methods of
8 competition, or to unfair or deceptive acts or practices,
9 in or affecting commerce issued by the Commission shall
10 confer any rights upon any person, State, or locality, nor
11 shall operate to bind the Commission or any person, State,
12 or locality to the approach recommended in such guide-
13 lines, general statements of policy, or similar guidance. In
14 any enforcement action, the Commission shall prove a vio-
15 lation of a provision of law enforced by the Commission.
16 The Commission may not base an enforcement action on,
17 or execute a consent order based on, acts or practices that
18 are alleged to be inconsistent with any such guidelines,
19 general statements of policy, or similar guidance, unless
20 the acts or practices violate a provision of law enforced
21 by the Commission.

22 “(B) Compliance with any guidelines, general state-
23 ment of policy, or similar guidance issued by the Commis-
24 sion may be used as evidence of compliance with the provi-
25 sion of law under which the guidelines, general statement
26 of policy, or guidance was issued.

1 “(C) Nothing in this paragraph shall be construed to
2 confer any authority upon or negate any authority of the
3 Commission to issue guidelines, general statements of pol-
4 icy, or similar guidance.”.

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