

117TH CONGRESS
1ST SESSION

S. 3399

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 SENATE OF THE UNITED STATES

DECEMBER 15, 2021

Mr. RUBIO (for himself and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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 “Domain Reform for
5 Unlawful Drug Sellers Act” or the “DRUGS Act”.

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 that is used to facilitate the online sale
13 of drugs illegally and that is under the control of the
14 registry operator or registrar, lock the domain name;
15 and

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

18 “(b) NOTICE.—Subsection (a) shall apply in the case
19 of a notification by a trusted notifier that includes, at a
20 minimum—

21 “(1) the domain name being reported to the ap-
22 propriate registry operator or registrar;

23 “(2) the date of observation that the domain
24 name was used to facilitate the online sale of drugs
25 illegally;

1 “(3) a summary of the alleged activities that
2 constitute a domain name being used to facilitate
3 the online sale of drugs illegally; and

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

8 “(c) REGISTRANT APPEAL.—

9 “(1) IN GENERAL.—Any registrant whose do-
10 main name is locked and suspended pursuant to
11 subsection (a) may appeal such action to the trusted
12 notifier pursuant to paragraph (2). The domain
13 name shall remain locked and suspended until a
14 final determination of the merits of the appeal has
15 been made.

16 “(2) APPEALS.—

17 “(A) IN GENERAL.—In bringing such an
18 appeal, the registrant for the locked and sus-
19 pended domain name may do any of the fol-
20 lowing:

21 “(i) Contact the applicable registry
22 operator or registrar to request informa-
23 tion regarding the business name, or per-
24 sonal name if the trusted notifier is not a
25 business, and the email address, of the

1 trusted notifier who submitted the notifica-
2 tion regarding the domain name.

3 “(ii) Dispute the notification by sub-
4 mitting the following to the applicable
5 trusted notifier:

6 “(I) A copy of the registrant’s
7 pharmacy licenses for all jurisdictions
8 where it offered to ship prescription
9 medicines at the time of the notifica-
10 tion where such licensure is legally re-
11 quired in such jurisdiction, or a copy
12 of registrant’s affiliated pharmacy’s li-
13 censes for all jurisdictions where the
14 registrant offered to facilitate the
15 shipment of prescription medicines at
16 the time of the notification where
17 such licensure is legally required in
18 such jurisdiction.

19 “(II) The license information of
20 the medical practitioner involved in
21 issuing the prescription facilitated in
22 part by the registrant’s domain name
23 where practitioner licensure is legally
24 required in such jurisdiction.

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

5 “(C) INVESTIGATION.—The applicable
6 trusted notifier shall—

7 “(i) conduct a reasonable investigation
8 regarding the registrant and its domain
9 name to determine whether notification
10 under subsection (a) was improper; and

11 “(ii) in conducting such investigation,
12 consider the information provided by the
13 registrant under subparagraph (A).

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

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

23 “(e) DEFINITIONS.—In this section:

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

1 “(A) identifies a specific location on the
2 internet that belongs to a particular person;
3 and

4 “(B) consists of 2 or more textual seg-
5 ments separated by dots.

6 “(2) DOMAIN NAME USED TO FACILITATE THE
7 ONLINE SALE OF DRUGS ILLEGALLY.—The term ‘do-
8 main name used to facilitate the online sale of drugs
9 illegally’ means a domain name that identifies a lo-
10 cation on the internet, a primary or significant pur-
11 pose of which is to introduce or deliver for introduc-
12 tion into interstate commerce a drug or controlled
13 substance in violation of this Act or the Controlled
14 Substances Act.

15 “(3) LOCK.—The term ‘lock’ means, with re-
16 spect to a domain name, for the registry operator or
17 registrar to systematically prevent the domain name
18 from being updated, transferred, or deleted during
19 the balance of the registration of the domain name,
20 which may be achieved using domain name registra-
21 tion protocols.

22 “(4) PRESCRIPTION DRUG.—The term ‘pre-
23 scription drug’ means a drug subject to section
24 503(b)(1).

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

3 “(A) manages the registration of domain
4 names; and

5 “(B) during the registration process—

6 “(i) verifies that the requested domain
7 name meets registry requirements; and

8 “(ii) submits the name to the appro-
9 priate registry operator.

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

13 “(7) REGISTRY OPERATOR.—The term ‘registry
14 operator’ means an organization that maintains a
15 registry, including by—

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

18 “(B) making the requested changes in the
19 registry.

20 “(8) SUSPEND.—The term ‘suspend’ means,
21 with respect to a domain name, for the registry op-
22 erator or registrar to systematically disable the
23 functionality of the domain name through a hold or
24 suspension during the balance of the registration of

1 the domain name, which may be achieved using do-
2 main name registration protocols.

3 “(9) TRUSTED NOTIFIER.—The term ‘trusted
4 notifier’ includes the following (and the designees
5 and agents thereof):

6 “(A) The Food and Drug Administration.

7 “(B) The Department of Justice, including
8 the Drug Enforcement Administration.

9 “(C) The Department of Homeland Secu-
10 rity.

11 “(D) A State attorney general.

12 “(E) A State board of pharmacy.

13 “(F) A nonprofit organization with a mem-
14 bership or governance comprised exclusively of
15 representatives of—

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

18 “(ii) similarly positioned (as deter-
19 mined by the Commissioner of Food and
20 Drugs) agencies or officials.

21 “(G) Any entity currently under contract
22 or in a public-private partnership with the Food
23 and Drug Administration or the Drug Enforce-
24 ment Agency to share information related to
25 online drug sales.

1 “(H) Any other entity identified by the
2 Food and Drug Administration as a trusted no-
3 tifier for purposes of this section, taking into
4 consideration, at minimum, whether the enti-
5 ty—

6 “(i) is registered to do business in the
7 United States;

8 “(ii) agrees to share notification data,
9 upon request, with the Food and Drug Ad-
10 ministration and the Drug Enforcement
11 Agency;

12 “(iii) does not knowingly or with will-
13 ful ignorance approve or do business with
14 entities that fail to adhere to the regula-
15 tions of the Food and Drug Administration
16 or the Drug Enforcement Agency; and

17 “(iv) has published on the website of
18 such entity policies and procedures for how
19 the entity will issue notifications under
20 subsection (a).”.

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

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

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

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