

HR 6713 IH

110th CONGRESS
2d Session
H. R. 6713

To amend title 18, United States Code, to provide for more effective enforcement of the Federal prohibition on the interstate shipment of stolen property, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

July 31, 2008

Mr. SCOTT of Virginia (for himself and Mr. DAVIS of Alabama) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide for more effective enforcement of the Federal prohibition on the interstate shipment of stolen property, 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 'E-fencing Enforcement Act of 2008'.

SEC. 2. FINDING AND DECLARATION.

The Congress finds and declares that--

(1) the knowing participation, including by willful blindness, in a scheme to fence specific goods the participant knows are stolen, if the scheme involves the shipment of those goods in interstate or foreign commerce, including a knowing participation by providing a marketplace through the Internet for those goods, is a violation of section 2314 of title 18, United States Code, and should be vigorously prosecuted by the Department of Justice; and

(2) the Department of Justice should normally consider compliance with this Act as a negation of culpability under that section.

SEC. 3. E-FENCING ENFORCEMENT.

(a) Improving Enforcement- Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

`Sec. 2323. E-fencing Enforcement

`(a) Duty To Provide Information- It shall be the duty of each online marketplace provider to disclose contact information for any high volume seller to any inquirer with standing under this section to seek that information.

`(b) Duty To Retain Information About High Volume Sellers- It shall be the duty of each online marketplace provider to retain contact information for three years after receipt of that information from high volume seller.

`(c) Take-Down Requirement- Upon the request of a recipient of contact information under this section, it shall be the duty of the provider to determine, based on information reasonably available to it or that could be obtained by the provider without undue expense, whether the goods or items were lawfully acquired. If the provider determines that there is good reason to believe the goods or items were unlawfully acquired, it shall be the duty of the provider to preclude access by the high volume seller to the online marketplace with respect to those goods or items.

`(d) Civil Action for Failure To Comply- Any person aggrieved by a failure of an Internet marketplace provider to comply with this section may, in a civil action, obtain appropriate relief.

`(e) Definitions- In this section--

`(1) the term 'online marketplace' means an Internet site where persons other than the operator of the Internet site can enter into transactions for the sale of goods or other items if--

`(A) the goods or items are promoted through inclusion in search results displayed within the site; and

`(B) the operator of the site has the contractual right to supervise those transactions and a financial interest in the sale of the goods or items;

`(2) the term 'contact information' means the name, telephone number, and address at which legal process could be served;

`(3) the term 'high volume seller' means any person who, through the online marketplace, sells or offers for sale goods or items--

`(A) of a value of \$5,000 or more in any single offering; or

`(B) of a value of \$12,000 or more in one or more offerings during the course of the preceding 365 days; and

`(4) the term 'inquirer with standing under this section to seek' means any person who provides to the online marketplace provider a signed report made to or received from a criminal law enforcement agency reporting the unsolved theft from that person during the preceding 365 days of goods matching the description of those offered on the online marketplace after the theft.'