117TH CONGRESS
1ST SESSION

S. _____

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

Mr. RUBIO (for himself and Ms. KLOBUCHAR) introduced the following bill; which was read twice and 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.

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 ''Domain Reform for Unlawful Drug Sellers Act'' or the ''DRUGS Act''.

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

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

"SEC. 524B. DOMAIN NAMES USED TO FACILITATE THE ONLINE SALE OF DRUGS ILLEGALLY.

''(a) IN GENERAL.—A registry operator or registrar shall—

''(1) not later than 24 hours after receipt of a notification from a trusted notifier respecting a domain name that is used to facilitate the online sale of drugs illegally and that is under the control of the registry operator or registrar, lock the domain name; and

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

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

''(1) the domain name being reported to the appropriate registry operator or registrar;

''(2) the date of observation that the domain name was used to facilitate the online sale of drugs illegally;

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

''(4) a statement that evidence of offering drugs illegally, such as a screenshot, has been retained, and is available to be shared with the registry operator or registrar.

''(c) REGISTRANT APPEAL.—

''(1) IN GENERAL.—Any registrant whose domain name is locked and suspended pursuant to subsection (a) may appeal such action to the trusted notifier pursuant to paragraph (2). The domain name shall remain locked and suspended until a final determination of the merits of the appeal has been made.

''(2) APPEALS.—

''(A) IN GENERAL.—In bringing such an appeal, the registrant for the locked and suspended domain name may do any of the following:

''(i) Contact the applicable registry operator or registrar to request information regarding the business name, or personal name if the trusted notifier is not a business, and the email address, of the

trusted notifier who submitted the notification regarding the domain name.

''(ii) Dispute the notification by submitting the following to the applicable trusted notifier:

''(I) A copy of the registrant's pharmacy licenses for all jurisdictions where it offered to ship prescription medicines at the time of the notification where such licensure is legally required in such jurisdiction, or a copy of registrant's affiliated pharmacy's licenses for all jurisdictions where the registrant offered to facilitate the shipment of prescription medicines at the time of the notification where such licensure is legally required in such jurisdiction.

''(II) The license information of the medical practitioner involved in issuing the prescription facilitated in part by the registrant's domain name where practitioner licensure is legally required in such jurisdiction.

"(B) PROVISION OF INFORMATION.—Within 15 days after receiving a request under subparagraph (A)(i), a registry operator or registrar shall provide the requested information.

"(C) INVESTIGATION.—The applicable trusted notifier shall—

"(i) conduct a reasonable investigation regarding the registrant and its domain name to determine whether notification under subsection (a) was improper; and

"(ii) in conducting such investigation, consider the information provided by the registrant under subparagraph (A).

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

"(d) RULE OF CONSTRUCTION.—Nothing in this section prohibits a registry operator or registrar from locking and suspending a domain name used to facilitate the online sale of drugs illegally before receipt of a notification under this section from a trusted notifier.

"(e) DEFINITIONS.—In this section:

"(1) DOMAIN NAME.—The term 'domain name' means a name that—

"(A) identifies a specific location on the internet that belongs to a particular person; and

"(B) consists of 2 or more textual segments separated by dots.

"(2) DOMAIN NAME USED TO FACILITATE THE ONLINE SALE OF DRUGS ILLEGALLY.—The term 'domain name used to facilitate the online sale of drugs illegally' means a domain name that identifies a location on the internet, a primary or significant purpose of which is to introduce or deliver for introduction into interstate commerce a drug or controlled substance in violation of this Act or the Controlled Substances Act.

"(3) LOCK.—The term 'lock' means, with respect to a domain name, for the registry operator or registrar to systematically prevent the domain name from being updated, transferred, or deleted during the balance of the registration of the domain name, which may be achieved using domain name registration protocols.

"(4) PRESCRIPTION DRUG.—The term 'prescription drug' means a drug subject to section 503(b)(1).

''(5) REGISTRAR.—The term 'registrar' means an organization that—

''(A) manages the registration of domain names; and

''(B) during the registration process—

''(i) verifies that the requested domain name meets registry requirements; and

''(ii) submits the name to the appropriate registry operator.

''(6) REGISTRY.—The term 'registry' means an authoritative master database of the domain names registered in a top-level domain.

''(7) REGISTRY OPERATOR.—The term 'registry operator' means an organization that maintains a registry, including by—

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

''(B) making the requested changes in the registry.

''(8) SUSPEND.—The term 'suspend' means, with respect to a domain name, for the registry operator or registrar to systematically disable the functionality of the domain name through a hold or suspension during the balance of the registration of

the domain name, which may be achieved using domain name registration protocols.

''(9) TRUSTED NOTIFIER.—The term 'trusted notifier' includes the following (and the designees and agents thereof):

''(A) The Food and Drug Administration.

''(B) The Department of Justice, including the Drug Enforcement Administration.

''(C) The Department of Homeland Security.

''(D) A State attorney general.

''(E) A State board of pharmacy.

''(F) A nonprofit organization with a membership or governance comprised exclusively of representatives of—

''(i) agencies or officials specified in any of subparagraphs (A) through (E); or

''(ii) similarly positioned (as determined by the Commissioner of Food and Drugs) agencies or officials.

''(G) Any entity currently under contract or in a public-private partnership with the Food and Drug Administration or the Drug Enforcement Agency to share information related to online drug sales.

"(H) Any other entity identified by the Food and Drug Administration as a trusted notifier for purposes of this section, taking into consideration, at minimum, whether the entity—

"(i) is registered to do business in the United States;

"(ii) agrees to share notification data, upon request, with the Food and Drug Administration and the Drug Enforcement Agency;

"(iii) does not knowingly or with willful ignorance approve or do business with entities that fail to adhere to the regulations of the Food and Drug Administration or the Drug Enforcement Agency; and

"(iv) has published on the website of such entity policies and procedures for how the entity will issue notifications under subsection (a).".

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

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

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