

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To establish criminal penalties for failing to inform and warn of serious dangers.

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IN THE SENATE OF THE UNITED STATES

Mr. BLUMENTHAL introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To establish criminal penalties for failing to inform and warn of serious dangers.

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 “Hide No Harm Act  
5 of 2015”.

6 **SEC. 2. CRIMINAL PENALTIES.**

7 (a) IN GENERAL.—Part I of title 18, United States  
8 Code, is amended by inserting after chapter 101 the fol-  
9 lowing:

# 1 **“CHAPTER 101A—REPORTING STANDARDS**

“Sec.

“2081. Definitions.

“2082. Failure to inform and warn.

“2083. Relationship to existing law.

## 2 **“§ 2081. Definitions**

3 “In this chapter—

4 “(1) the term ‘appropriate Federal agency’  
5 means an agency with jurisdiction over a covered  
6 product, covered service, or business practice;

7 “(2) the term ‘business entity’ means a cor-  
8 poration, company, association, firm, partnership,  
9 sole proprietor, or other business entity;

10 “(3) the term ‘business practice’ means a meth-  
11 od or practice of—

12 “(A) manufacturing, assembling, design-  
13 ing, researching, importing, or distributing a  
14 covered product;

15 “(B) conducting, providing, or preparing  
16 to provide a covered service; or

17 “(C) otherwise carrying out business oper-  
18 ations relating to covered products or covered  
19 services;

20 “(4) the term ‘covered product’ means a prod-  
21 uct manufactured, assembled, designed, researched,  
22 imported, or distributed by a business entity that en-  
23 ters interstate commerce;

1           “(5) the term ‘covered service’ means a service  
2           conducted or provided by a business entity that en-  
3           ters interstate commerce;

4           “(6) the term ‘responsible corporate officer’  
5           means a person who—

6                   “(A) is an employer, director, or officer of  
7                   a business entity;

8                   “(B) has the responsibility and authority,  
9                   by reason of his or her position in the business  
10                  entity and in accordance with the rules or prac-  
11                  tice of the business entity, to acquire knowledge  
12                  of any serious danger associated with a covered  
13                  product (or component of a covered product),  
14                  covered service, or business practice of the busi-  
15                  ness entity; and

16                  “(C) has the responsibility, by reason of  
17                  his or her position in the business entity, to  
18                  communicate information about the serious  
19                  danger to—

20                           “(i) an appropriate Federal agency;

21                           “(ii) employees of the business entity;

22                           or

23                           “(iii) individuals, other than employ-  
24                           ees of the business entity, who may be ex-  
25                           posed to the serious danger;

1           “(7) the term ‘serious bodily injury’ means an  
2           impairment of the physical condition of an indi-  
3           vidual, including as a result of trauma, repetitive  
4           motion, or disease, that—

5                   “(A) creates a substantial risk of death; or

6                   “(B) causes—

7                           “(i) serious permanent disfigurement;

8                           “(ii) unconsciousness;

9                           “(iii) extreme pain; or

10                           “(iv) permanent or protracted loss or  
11                   impairment of the function of any bodily  
12                   member, organ, bodily system, or mental  
13                   faculty;

14           “(8) the term ‘serious danger’ means a danger,  
15           not readily apparent to a reasonable person, that the  
16           normal or reasonably foreseeable use of, or the expo-  
17           sure of an individual to, a covered product, covered  
18           service, or business practice has an imminent risk of  
19           causing death or serious bodily injury to an indi-  
20           vidual; and

21           “(9) the term ‘warn affected employees’ means  
22           take reasonable steps to give, to each individual who  
23           is exposed or may be exposed to a serious danger in  
24           the course of work for a business entity, a descrip-

1           tion of the serious danger that is sufficient to make  
2           the individual aware of the serious danger.

3   **“§ 2082. Failure to inform and warn**

4           “(a) REQUIREMENT.—After acquiring actual knowl-  
5   edge of a serious danger associated with a covered product  
6   (or component of a covered product), covered service, or  
7   business practice of a business entity, a business entity  
8   and any responsible corporate officer with respect to the  
9   covered product, covered service, or business practice,  
10 shall—

11           “(1) as soon as practicable and not later than  
12   24 hours after acquiring such knowledge, verbally  
13   inform an appropriate Federal agency of the serious  
14   danger, unless the business entity or responsible cor-  
15   porate officer has actual knowledge that an appro-  
16   priate Federal agency has been so informed;

17           “(2) not later than 15 days after acquiring such  
18   knowledge, inform an appropriate Federal agency in  
19   writing of the serious danger, unless the business  
20   entity or responsible corporate officer has actual  
21   knowledge than an appropriate Federal agency has  
22   been so informed;

23           “(3) as soon as practicable, warn affected em-  
24   ployees in writing, unless the business entity or re-

1       sponsible corporate officer has actual knowledge that  
2       affected employees have been so warned; and

3               “(4) as soon as practicable, inform individuals,  
4       other than affected employees, who may be exposed  
5       to the serious danger of the serious danger if such  
6       individuals can reasonably be identified, unless the  
7       business entity or responsible corporate officer has  
8       actual knowledge that such individuals have been  
9       warned.

10       “(b) PENALTY.—

11               “(1) IN GENERAL.—Whoever knowingly violates  
12       subsection (a) shall be fined under this title, impris-  
13       oned for not more than 5 years, or both.

14               “(2) PROHIBITION OF PAYMENT BY BUSINESS  
15       ENTITIES.—If a final judgment is rendered and a  
16       fine is imposed on an individual under this sub-  
17       section, the fine may not be paid, directly or indi-  
18       rectly, out of the assets of any business entity on be-  
19       half of the individual.

20       “(c) CIVIL ACTION TO PROTECT AGAINST RETALIA-  
21       TION.—

22               “(1) PROHIBITION.—It shall be unlawful to  
23       knowingly discriminate against any person in the  
24       terms or conditions of employment, in retention in  
25       employment, or in hiring because the person in-



1 under the rules and procedures set forth in  
2 section 42121(b) of title 49.

3 “(ii) EXCEPTION.—Notification made  
4 under section 42121(b)(1) of title 49 shall  
5 be made to the person named in the com-  
6 plaint and to the employer.

7 “(iii) BURDENS OF PROOF.—An ac-  
8 tion brought under subparagraph (A)(ii)  
9 shall be governed by the legal burdens of  
10 proof set forth in section 42121(b) of title  
11 49.

12 “(iv) STATUTE OF LIMITATIONS.—An  
13 action under subparagraph (A) shall be  
14 commenced not later than 180 days after  
15 the date on which the violation occurs, or  
16 after the date on which the employee be-  
17 came aware of the violation.

18 “(v) JURY TRIAL.—A party to an ac-  
19 tion brought under subparagraph (A)(ii)  
20 shall be entitled to trial by jury.

21 “(3) REMEDIES.—

22 “(A) IN GENERAL.—An employee pre-  
23 vailing in any action under paragraph (2)(A)  
24 shall be entitled to all relief necessary to make  
25 the employee whole.

1           “(B) COMPENSATORY DAMAGES.—Relief  
2           for any action under subparagraph (A) shall in-  
3           clude—

4                   “(i) reinstatement with the same se-  
5                   niority status that the employee would  
6                   have had, but for the discrimination;

7                   “(ii) the amount of back pay, with in-  
8                   terest; and

9                   “(iii) compensation for any special  
10                  damages sustained as a result of the dis-  
11                  crimination, including litigation costs, ex-  
12                  pert witness fees, and reasonable attorney  
13                  fees.

14           “(4) RIGHTS RETAINED BY EMPLOYEE.—Noth-  
15           ing in this subsection shall be deemed to diminish  
16           the rights, privileges, or remedies of any employee  
17           under any Federal or State law, or under any collec-  
18           tive bargaining agreement.

19           “(5) NONENFORCEABILITY OF CERTAIN PROVI-  
20           SIONS WAIVING RIGHTS AND REMEDIES OR REQUIR-  
21           ING ARBITRATION OF DISPUTES.—

22                   “(A) WAIVER OF RIGHTS AND REM-  
23                   EDIES.—The rights and remedies provided for  
24                   in this subsection may not be waived by any  
25                   agreement, policy form, or condition of employ-

1           ment, including by a predispute arbitration  
2           agreement.

3                   “(B) PREDISPUTE ARBITRATION AGREE-  
4           MENTS.—No predispute arbitration agreement  
5           shall be valid or enforceable, if the agreement  
6           requires arbitration of a dispute arising under  
7           this subsection.

8   **“§ 2083. Relationship to existing law**

9           “(a) RIGHTS TO INTERVENE.—Nothing in this chap-  
10   ter shall be construed to limit the right of any individual  
11   or group of individuals to initiate, intervene in, or other-  
12   wise participate in any proceeding before a regulatory  
13   agency or court, nor to relieve any regulatory agency,  
14   court, or other public body of any obligation, or affect its  
15   discretion to permit intervention or participation by an in-  
16   dividual or a group or class of consumers, employees, or  
17   citizens in any proceeding or activity.

18           “(b) RULE OF CONSTRUCTION.—Nothing in this  
19   chapter shall be construed to—

20                   “(1) increase the time period for informing of  
21           a serious danger or other harm under any other pro-  
22           vision of law; or

23                   “(2) limit or otherwise reduce the penalties for  
24           any violation of Federal or State law under any  
25           other provision of law.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—

2 The table of chapters for part I of title 18, United States

3 Code, is amended by inserting after the item relating to

4 chapter 101 the following:

“101A. Reporting standards ..... 2081”.

5 (c) EFFECTIVE DATE.—The amendments made by

6 subsections (a) and (b) shall take effect on the date that

7 is 1 year after the date of enactment of this Act.