

108TH CONGRESS
1ST SESSION

S. 404

To protect children from exploitive child modeling, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2003

Mr. BUNNING (for himself and Mr. BROWNBACK) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To protect children from exploitive child modeling, 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 “Child Modeling Exploi-
5 tation Prevention Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) The use of children in the production of
9 exploitive child modeling, including on Internet
10 websites, in photographs, films, videos, and other
11 visual depictions, is a form of child abuse that can

1 result in physical and psychological harm to the chil-
2 dren involved.

3 (2) Exploitive child modeling is different from
4 other, legitimate, child modeling because exploitive
5 child modeling involves marketing the child himself
6 or herself in lascivious positions and acts, rather
7 than actually marketing products to average Amer-
8 ican consumers.

9 (3) The purpose of exploitive child modeling is
10 to satisfy the demand of pedophiles.

11 (4) Unlike legitimate child modeling, exploitive
12 child modeling may involve a direct and personal
13 interaction between the child model and the
14 pedophile. The pedophile often knows the child's
15 name and has a way of communicating with the
16 child.

17 (5) The interaction between the exploited child
18 model and the pedophile can lead the child to trust
19 pedophiles and to believe that it is acceptable and
20 safe to meet with pedophiles in private.

21 (6) Over 70 percent of convicted pedophiles
22 have used child pornography or exploitive child mod-
23 eling depictions to whet their sexual appetites. Be-
24 cause children are used in its production, exploitive
25 child modeling can place the child in danger of being

1 abducted, abused, or murdered by the pedophiles
2 who view such depictions.

3 (7) These exploitive exhibitions of children are
4 unacceptable by social standards and lead to a direct
5 harm to the children involved.

6 **SEC. 3. EMPLOYMENT IN EXPLOITIVE CHILD MODELING.**

7 (a) PROHIBITION ON EMPLOYMENT.—Section 12 of
8 the Fair Labor Standards Act of 1938 (29 U.S.C. 212)
9 is amended by adding at the end the following:

10 “(e)(1) No employer may employ a child model in
11 exploitive child modeling.

12 “(2) Notwithstanding section 16(a), whoever violates
13 paragraph (1) shall be fined under title 18 or imprisoned
14 not more than 10 years, or both.

15 “(3)(A) In this subsection, the term ‘exploitive child
16 modeling’ means modeling involving the use of a child
17 under 17 years old for financial gain without the purpose
18 of marketing a product or service other than the image
19 of the child.

20 “(B) Such term applies to any such use, regardless
21 of whether the employment relationship of the child is di-
22 rect or indirect, or contractual or noncontractual, or is
23 termed that of an independent contractor.

1 “(C) Such term does not apply to an image which,
2 taken as a whole, has serious literary, artistic, political,
3 or scientific value.”.

4 (b) OPPRESSIVE CHILD LABOR.—Section 3(l) of such
5 Act (29 U.S.C. 203(l)) is amended—

6 (1) by striking “(1) any” and inserting “(A)
7 any”;

8 (2) by striking “(2) any” and inserting “(B)
9 any”;

10 (3) by inserting “(1)” after “(l)”; and

11 (4) by adding at the end the following new
12 paragraph:

13 “(2) Such term includes employment of a minor in
14 violation of section 12(e)(1).”.

15 **SEC. 4. EXPLOITIVE CHILD MODELING OFFENSE.**

16 (a) IN GENERAL.—110 of title 18, United States
17 Code, is amended by inserting after section 2252A the fol-
18 lowing:

19 **“§ 2252B. Exploitive child modeling**

20 “(a) IN GENERAL.—Except as provided in subsection
21 (b), whoever, in or affecting interstate or foreign com-
22 merce, with the intent to make a financial gain thereby—
23 displays or offers to provide the image of an individual
24 engaged in exploitive child modeling (as defined in section
25 12(e) of the Fair Labor Standards Act of 1938) shall be

1 fined under this title or imprisoned not more than 10
2 years, or both.

3 “(b) EXCEPTION.—This section does not apply to an
4 image which, taken as a whole, has serious literary, artis-
5 tic, political, or scientific value.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of chapter 110 of title 18, United States
8 Code, is amended by inserting after the item relating to
9 section 2252A the following:

“2252B. Exploitive child modeling.”.

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