

114TH CONGRESS  
2D SESSION

# H. R. 5118

To amend the Federal Trade Commission Act to specify certain effects of guidelines, general statements of policy, and similar guidance issued by the Federal Trade Commission.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2016

Mr. POMPEO (for himself, Mr. BURGESS, Mr. MULLIN, Mr. HARPER, Mrs. BLACKBURN, and Mr. LANCE) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Federal Trade Commission Act to specify certain effects of guidelines, general statements of policy, and similar guidance issued by the Federal Trade Commission.

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 “Solidifying Habitual  
5 and Institutional Explanations of Liability and Defenses  
6 Act” or the “SHIELD Act”.

1 **SEC. 2. EFFECTS OF GUIDELINES, GENERAL STATEMENTS**  
2 **OF POLICY, AND SIMILAR GUIDANCE.**

3 Section 18(a) of the Federal Trade Commission Act  
4 (15 U.S.C. 57a(a)) is amended by adding at the end the  
5 following:

6 “(3)(A) No guidelines, general statements of policy,  
7 or similar guidance issued by the Commission shall confer  
8 any rights upon any person, State, or locality, nor shall  
9 operate to bind the Commission or any person, State, or  
10 locality to the approach recommended in such guidelines,  
11 general statements of policy, or similar guidance. In any  
12 enforcement action, the Commission shall prove a violation  
13 of a provision of law enforced by the Commission. The  
14 Commission may not base an enforcement action on, or  
15 execute a consent order based on, acts or practices that  
16 are alleged to be inconsistent with any such guidelines,  
17 general statements of policy, or similar guidance, unless  
18 the acts or practices violate a provision of law enforced  
19 by the Commission.

20 “(B) Compliance with any guidelines, general state-  
21 ment of policy, or similar guidance issued by the Commis-  
22 sion may be used as evidence of compliance with the provi-  
23 sion of law under which the guidelines, general statement  
24 of policy, or guidance was issued.

25 “(C) Nothing in this paragraph shall be construed to  
26 confer any authority upon or negate any authority of the

- 1 Commission to issue guidelines, general statements of pol-
- 2 icy, or similar guidance.”.

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