

113TH CONGRESS  
2D SESSION

# H. R. 4048

To direct the Federal Trade Commission to promulgate regulations prohibiting mobile applications from accessing certain content and functions of a mobile device when such applications are not actively in use unless the user is provided with a disclosure of such access and grants affirmative express consent to such access.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2014

Mr. DUFFY introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To direct the Federal Trade Commission to promulgate regulations prohibiting mobile applications from accessing certain content and functions of a mobile device when such applications are not actively in use unless the user is provided with a disclosure of such access and grants affirmative express consent to such access.

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 “Securing Our Nation’s  
5 Application Privacy Act of 2014” or the “SNAP Act of  
6 2014”.

1 **SEC. 2. ACCESS BY MOBILE APPLICATIONS TO CERTAIN DE-**  
2 **VICE CONTENT AND FUNCTIONS.**

3 (a) IN GENERAL.—Not later than 1 year after the  
4 date of the enactment of this Act, the Federal Trade Com-  
5 mission shall promulgate regulations in accordance with  
6 section 553 of title 5, United States Code, that require—

7 (1) any person who develops, sells or offers for  
8 sale, or otherwise makes available to consumers a  
9 mobile application to ensure that the application  
10 does not access any content or functions described in  
11 subsection (b) while the application is not actively in  
12 use, unless—

13 (A) the application triggers the disclosure  
14 and consent functions of the mobile platform or  
15 operating system described in paragraph (2);  
16 and

17 (B) the user grants affirmative express  
18 consent as described in such paragraph; and

19 (2) any person who develops, sells or offers for  
20 sale, or otherwise makes available to consumers a  
21 mobile platform or operating system to ensure that  
22 the mobile platform or operating system—

23 (A) immediately before any mobile applica-  
24 tion that is installed on the mobile device and  
25 that is not actively in use accesses any content  
26 or functions described in subsection (b), pro-

1           vides the user of the device with a disclosure of  
2           such access and the opportunity to grant af-  
3           firmative express consent to such access or to  
4           deny such access; and

5                   (B) prevents the application from engaging  
6           in such access unless the user of the device  
7           grants such affirmative express consent.

8           (b) **CONTENT DESCRIBED.**—The content and func-  
9           tions described in this subsection are the following:

10                   (1) Information about the geographic location  
11           of the device.

12                   (2) Contact information of individuals stored on  
13           the device.

14                   (3) Photographs, video recordings, or audio re-  
15           cordings stored on the device.

16                   (4) Events or notations stored in a calendar ap-  
17           plication (or an application with calendar functions)  
18           on the device.

19                   (5) A camera of the device or any information  
20           obtained from such a camera.

21                   (6) A microphone of the device or any informa-  
22           tion obtained from such a microphone.

23                   (7) Such additional content or functions speci-  
24           fied by the Federal Trade Commission in the regula-  
25           tions promulgated under subsection (a) as the Com-

1 mission considers necessary to protect the privacy of  
2 users of mobile devices.

3 **SEC. 3. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

4 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

5 A violation of a regulation promulgated under section 2  
6 shall be treated as a violation of a regulation under section  
7 18(a)(1)(B) of the Federal Trade Commission Act (15  
8 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts  
9 or practices.

10 (b) POWERS OF COMMISSION.—The Federal Trade

11 Commission shall enforce the regulations promulgated  
12 under section 2 in the same manner, by the same means,  
13 and with the same jurisdiction, powers, and duties as  
14 though all applicable terms and provisions of the Federal  
15 Trade Commission Act (15 U.S.C. 41 et seq.) were incor-  
16 porated into and made a part of this Act. Any person who  
17 violates such a regulation shall be subject to the penalties  
18 and entitled to the privileges and immunities provided in  
19 the Federal Trade Commission Act.

20 **SEC. 4. DEFINITIONS.**

21 In this Act:

22 (1) ACTIVELY IN USE.—The term “actively in  
23 use” means, with respect to a mobile application,  
24 that—

1 (A) the application is operating in accord-  
2 ance with the terms of service provided by the  
3 developer of the application to the user of the  
4 mobile device; and

5 (B) the user of the mobile device is inter-  
6 acting with the application or the application is  
7 otherwise operating in a manner such that a  
8 user of ordinary technical expertise and experi-  
9 ence would consider the application to be active,  
10 open, or running.

11 (2) MOBILE APPLICATION.—The term “mobile  
12 application” means a software program that runs on  
13 the mobile platform or operating system of a mobile  
14 device.

15 (3) MOBILE DEVICE.—The term “mobile de-  
16 vice” means a smartphone, tablet computer, or simi-  
17 lar portable computing device that transmits data  
18 over a wireless connection.

19 (4) MOBILE PLATFORM OR OPERATING SYS-  
20 TEM.—The term “mobile platform or operating sys-  
21 tem” means the software that enables the basic  
22 functionality of a mobile device and the installation  
23 and use of mobile applications on the device.

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