

S. 2730

*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 “Protecting Consumers from Unreasonable Credit Rates Act of 2023”.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) attempts have been made to prohibit usurious interest rates in America since colonial times;

(2) at the Federal level, in 2006, Congress enacted a Federal 36-percent annualized usury cap for servicemembers and their families for covered credit products, as defined by the Department of Defense, which curbed payday, car title, and tax refund lending around military bases;

(3) notwithstanding such attempts to curb predatory lending, high-cost lending persists in all 50 States due to loopholes in State laws, safe harbor laws for specific forms of credit, and the exportation of unregulated interest rates permitted by preemption;

(4) due to the lack of a comprehensive Federal usury cap, consumers have paid as much as approximately \$14,000,000,000 on high-cost overdraft loans, \$9,000,000,000 on storefront and online payday loans, \$3,800,000,000 on car title loans, and additional amounts in unreported revenues on high-cost online installment loans;

(5) cash-strapped consumers pay on average approximately 400-percent annual interest for payday loans, 300-percent annual interest for car title loans, 17,000 percent for bank overdraft loans, and triple-digit rates for online installment loans;

(6) a national maximum interest rate that includes all forms of fees and closes all loopholes is necessary to eliminate such predatory lending; and

(7) alternatives to predatory lending that encourage small dollar loans with minimal or no fees, installment payment schedules, and affordable repayment periods should be encouraged.

**SEC. 3. NATIONAL MAXIMUM INTEREST RATE.**

Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following:

**“SEC. 140B. MAXIMUM RATES OF INTEREST.**

“(a) IN GENERAL.—Notwithstanding any other provision of law, no creditor may make an extension of credit to a consumer with respect to which the fee and interest rate, as defined in subsection (b), exceeds 36 percent.

“(b) FEE AND INTEREST RATE DEFINED.—

“(1) IN GENERAL.—For purposes of this section, the fee and interest rate includes all charges payable, directly or indirectly, incident to, ancillary to, or as a condition of the extension of credit, including—

“(A) any payment compensating a creditor or prospective creditor for—

“(i) an extension of credit or making available a line of credit, such as fees connected with credit extension or availability such as numerical periodic rates, annual fees, cash advance fees, and membership fees; or

“(ii) any fees for default or breach by a borrower of a condition upon which credit was extended, such as late fees, insufficient funds fees, overdraft fees, and over-limit fees;

“(B) all fees which constitute a finance charge, as defined by rules of the Bureau in accordance with this title;

“(C) credit insurance premiums, whether optional or required; and

“(D) all charges and costs for ancillary products sold in connection with or incidental to the credit transaction.

“(2) TOLERANCES.—

“(A) IN GENERAL.—With respect to a credit obligation that is payable in at least 3 fully amortizing installments over at least 90 days, the term ‘fee and interest rate’ does not include—

“(i) application or participation fees that in total do not exceed the greater of \$30 or, if there is a limit to the credit line, 5 percent of the credit limit, up to \$120, if—

“(I) such fees are excludable from the finance charge pursuant to section 106 and regulations issued thereunder;

“(II) such fees cover all credit extended or renewed by the creditor for 12 months; and

“(III) the minimum amount of credit extended or available on a credit line is equal to \$300 or more;

“(ii) a late fee charged as authorized by State law and by the agreement that does not exceed either \$20 per late payment or \$20 per month; or

“(iii) a creditor-imposed insufficient funds fee charged when a borrower tenders payment on a debt with a check drawn on insufficient funds that does not exceed \$15.

“(B) ADJUSTMENTS FOR INFLATION.—The Bureau may adjust the amounts of the tolerances established under this paragraph for inflation over time, consistent with the primary goals of protecting consumers and ensuring that the 36-percent fee and interest rate limitation is not circumvented.

“(C) CALCULATIONS.—

“(1) OPEN END CREDIT PLANS.—For an open end credit plan—

“(A) the fee and interest rate shall be calculated each month, based upon the sum of all fees and finance charges described in subsection (b) charged by the creditor during the preceding 1-year period, divided by the average daily balance; and

“(B) if the credit account has been open less than 1 year, the fee and interest rate shall be calculated based upon the total of all fees and finance charges described in subsection (b)(1) charged by the creditor since the plan was opened, divided by the average daily balance, and multiplied by the quotient of 12 divided by the number of full months that the credit plan has been in existence.

“(2) OTHER CREDIT PLANS.—For purposes of this section, in calculating the fee and interest rate, the Bureau shall require the method of calculation of annual percentage rate specified in section 107(a)(1), except that the amount referred to in that section 107(a)(1) as the ‘finance charge’ shall include all fees, charges, and payments described in subsection (b)(1) of this section.

“(3) ADJUSTMENTS AUTHORIZED.—The Bureau may make adjustments to the calculations in paragraphs (1) and (2), but the primary goals of such adjustment shall be to protect consumers and to ensure that the 36-percent fee and interest rate limitation is not circumvented.

“(d) DEFINITION OF CREDITOR.—As used in this section, the term ‘creditor’ has the same meaning as in section 702(e) of the Equal Credit Opportunity Act (15 U.S.C. 1691a(e)).

“(e) NO EXEMPTIONS PERMITTED.—The exemption authority of the Bureau under section 105 shall not apply to the rates established under this section or the disclosure requirements under section 127(b)(6).

“(f) DISCLOSURE OF FEE AND INTEREST RATE FOR CREDIT OTHER THAN OPEN END CREDIT PLANS.—In addition to the disclosure requirements under section 127(b)(6), the Bureau may prescribe regulations requiring disclosure of the fee and interest rate established under this section.

“(g) RELATION TO STATE LAW.—Nothing in this section may be construed to preempt any provision of State law that provides greater protection to consumers than is provided in this section.

“(h) CIVIL LIABILITY AND ENFORCEMENT.—In addition to remedies available to the consumer under section 130(a), any payment compensating a creditor or prospective creditor, to the extent that such payment is a transaction made in violation of this section, shall be null and void, and not enforceable by any party in any court or alternative dispute resolution forum, and the creditor or any subsequent holder of the obligation shall promptly return to the consumer any principal, interest, charges, and fees, and any security interest associated with such transaction. Notwithstanding any statute of limitations or repose, a violation of this section may be raised as a matter of defense by recoupment or setoff to an action to collect such debt or repossess related security at any time.

“(i) VIOLATIONS.—Any person that violates this section, or seeks to enforce an agreement made in violation of this section, shall be subject to, for each such violation, 1 year in prison and a fine in an amount equal to the greater of—

“(1) three times the amount of the total accrued debt associated with the subject transaction; or

“(2) \$50,000.

“(j) STATE ATTORNEYS GENERAL.—An action to enforce this section may be brought by the appropriate State attorney general in any United States district court or any other court of competent jurisdiction within 3 years from the date of the violation, and such attorney general may obtain injunctive relief.”.

**SEC. 4. DISCLOSURE OF FEE AND INTEREST RATE FOR OPEN END CREDIT PLANS.**

Section 127(b)(6) of the Truth in Lending Act (15 U.S.C. 1637(b)(6)) is amended by striking “the total finance charge expressed” and all that follows through the end of the paragraph and inserting “the fee and interest rate, displayed as ‘FAIR’, established under section 141.”.

**SUBMITTED RESOLUTIONS****SENATE RESOLUTION 329—TO AUTHORIZE TESTIMONY AND REPRESENTATION IN UNITED STATES V. HORN**

Mr. SCHUMER (for himself and Mr. McCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 329

Whereas, in the case of *United States v. Horn*, Cr. No. 21-301, pending in the United States District Court for the District of Columbia, the prosecution is seeking the production of testimony from Michael J. Mastrian, Director of the Senate Radio and Television Gallery, and Jeffrey S. Kent, Director of the Press Photographers' Gallery, departments of the Office of the Sergeant at Arms and Doorkeeper of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent current and former officers and employees of the Senate with respect to any subpoena, order, or request for evidence relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Michael J. Mastrian, Director of the Senate Radio and Television Gallery, and Jeffrey S. Kent, Director of the Press Photographers' Gallery, are authorized to provide relevant testimony in the case of *United States v. Horn*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Messrs. Mastrian and Kent, and any current or former officer or employee of their offices, in connection with the production of evidence authorized in section one of this resolution.

#### SENATE RESOLUTION 330—EX-PRESSING SUPPORT FOR THE GOALS AND IDEALS OF NATIONAL CHILD ABUSE PREVENTION MONTH

Mr. CORNYN (for himself and Mr. CASEY) submitted the following resolution; which was considered and agreed to:

S. RES. 330

Whereas children are fundamental to the success of the United States and will shape the future of the United States;

Whereas elected representatives and leaders in the communities of the United States must be ever vigilant and proactive in support of evidence-based means to prevent child abuse and neglect and support families;

Whereas adverse childhood experiences (referred to in this preamble as “ACEs”) are traumatic experiences that occur during childhood with lasting effects and include experiences of violence, abuse, or neglect;

Whereas at least 5 of the top 10 leading causes of death are associated with ACEs;

Whereas preventing ACEs could reduce many health conditions, including—

- (1) up to 21,000,000 cases of depression;
- (2) up to 1,900,000 cases of heart disease; and
- (3) up to 2,500,000 cases of overweight and obesity;

Whereas every child is filled with tremendous promise, and we all have a collective responsibility to prevent ACEs, foster the potential of every child, and promote positive childhood experiences;

Whereas primary prevention of child abuse and neglect can reduce the lifetime economic burden associated with child maltreatment;

Whereas, in 2021, an estimated 7,176,600 children were referred to child protective services agencies, alleging maltreatment;

Whereas, in 2022, the National Center for Missing and Exploited Children's CyberTipline received more than 32,000,000 reports of suspected online child sexual exploitation, which marked the highest number of reports ever received in 1 year;

Whereas 88,300,000 pieces of child exploitation materials were reported in 2022;

Whereas reports indicate that 1 in 4 girls and 1 in 13 boys experience sexual abuse before their eighteenth birthday, with 42,000,000 estimated child sexual abuse survivors in the United States;

Whereas approximately 1 in 7 children in the United States experienced child abuse, neglect, or both between 2022 and 2023;

Whereas 43 percent of children exposed to inappropriate sexual content on social media are under 13 years old, and 1 in 5 are 9 years old or younger;

Whereas 91 percent of child sexual abuse victims are abused by a person they know and trust;

Whereas children who are sexually abused, especially when not provided appropriate treatment and support, often suffer lifelong consequences, such as physical and mental health challenges and higher risk of drug and alcohol misuse and suicide;

Whereas education and awareness of possible signs of child abuse and neglect should be prioritized for purposes of prevention;

Whereas by intervening to prevent adversity and build resilience during the most critical years of development of a child, voluntary, evidence-based, home-visiting programs have shown positive impact on—

- (1) reducing the recurrence of child abuse and neglect;
- (2) decreased low-birthweight babies;
- (3) improved school readiness for children; and
- (4) increased high school graduation rates;

Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses support for the goals and ideals of National Child Abuse Prevention Month;

(2) recognizes child abuse and neglect and child sexual abuse are preventable and that a healthy and prosperous society depends on strong families and communities;

(3) supports efforts to increase the awareness of, and provide education for, the general public of the United States, with respect to preventing child abuse and neglect and building protective factors for families;

(4) supports the efforts to help survivors of childhood sexual abuse heal;

(5) supports justice for victims of childhood sexual abuse; and

(6) recognizes the need for prevention, healing, and justice efforts related to childhood abuse and neglect and sexual abuse.

#### SENATE RESOLUTION 331—DESIGNATING AUGUST 2023 AS “NATIONAL CATFISH MONTH”

Mr. WICKER (for himself, Mr. WARNOCK, Mr. TILLIS, Mr. TUBERVILLE, Mr. CRUZ, Mr. KENNEDY, Mrs. BRITT, Mr. CASSIDY, Mr. COTTON, Mr. BRAUN, Mr. BOOZMAN, and Mrs. HYDE-SMITH) submitted the following resolution; which was considered and agreed to:

S. RES. 331

Whereas the Catfish Institute recognizes August to be National Catfish Month;

Whereas the States of Alabama, Arkansas, Louisiana, Mississippi, and Texas recognize August to be National Catfish Month;

Whereas the States of Iowa, Kansas, Missouri, Nebraska, and Tennessee embody the Channel Catfish as their State Fish;

Whereas the farm-raised catfish industry in the United States employs over 9,000 people and contributes almost \$2,000,000,000 to the economy of the United States;

Whereas the United States has 55,855 surface water acres used for catfish production in 2023, and catfish growers in the United States had \$447,039,000 in sales during 2022;

Whereas the average catfish farmer produces 6,800 pounds of catfish per acre;

Whereas 99 percent of all United States farm-raised catfish are grown in Alabama, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, North Carolina, and Texas;

Whereas catfish is the largest farm-raised seafood product, by weight, in the United States, representing more than 50 percent of the food fish produced by the United States aquaculture industry;

Whereas United States farm-raised catfish are consistently high quality and, unlike ocean-caught fish, are available all year long;

Whereas United States farm-raised catfish are a sustainable and environmentally friendly seafood product;

Whereas catfish is a lean fish and an excellent source of protein; and

Whereas catfish is a versatile fish in cuisine of the United States, with a myriad of regional and national recipes to be enjoyed by all people of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates August 2023 as “National Catfish Month”;

(2) recognizes the contributions of all workers, past and present, that produce, process, and provide catfish for the people of the United States; and

(3) recognizes that purchasing United States farm-raised catfish supports farmers, jobs, and the economy of the United States.

#### AUTHORITY FOR COMMITTEES TO MEET

Ms. SMITH. Madam President, I have four requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

##### COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations is authorized to meet during the session of the Senate on Wednesday, September 6, 2023, at 10 a.m., to conduct a hearing.

##### COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Wednesday, September 6, 2023, at 10 a.m., to conduct a hearing on nominations.

##### SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Wednesday, September 6, 2023, at 2:30 p.m., to conduct a closed briefing.

##### SUBCOMMITTEE ON GOVERNMENT OPERATIONS AND BORDER MANAGEMENT

The Subcommittee on Government Operations and Border Management of the Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Wednesday, September 6, 2023, at 2:30 p.m., to conduct a hearing.

#### APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to the provisions of S. Res. 64, adopted March 5, 2013, appoints the following Senators as members of the Senate National Security Working Group for the 118th Congress: DIANNE FEINSTEIN of California (Administrative Co-Chair); JACK REED of Rhode Island (Co-Chair); ROBERT MENENDEZ of New Jersey (Co-Chair); RICHARD J.