



July 18, 2023

Honorable Jim Jordan
Chair, House Judiciary Committee
Washington, DC 20515

Honorable Jerrold Nadler
Ranking Member, House Judiciary Committee
Washington DC 20515

Re: Opposition to H.R. 1631

Dear Chairman Jordan, Ranking Member Nadler, and Members of the Judiciary Committee,

The Electronic Frontier Foundation (EFF) is the leading nonprofit organization defending privacy, free speech, and innovation in the digital world. Founded in 1990, EFF has over 28,000 members. EFF represents the interests of technology users in both court cases and broader policy debates surrounding the application of law to technology. We write to express our deep concerns with the PRO Codes Act (H.R. 1631).

While ensuring access to the law—and the professional standards incorporated into law by reference—is a laudable goal, the law as currently written does the opposite by granting a monopoly right to those standards.

By allowing special interests to retain copyright in standards that have become law, H.R. 1631 allows those same interests to control access to thousands of federal, state, and local laws that govern building safety, food safety, toy safety, energy efficiency, and other essential matters governing everyday life. The fact is that by becoming law, those standards no longer belong to the associations that created them, as it is anathema for law to belong to anyone but the people governed by them. It runs counter to long-standing precedence which makes clear that laws, no matter their origin, are not copyrightable.

By premising access on a grant of copyright, this bill prevents others from making laws accessible in ways that better serve those looking for them. It benefits the private actors to charge for access to better search, annotated standards, or audio versions for the blind. It does not benefit them to make the free public access as good as can be. Granting a copyright prevents others from performing that public service.

Furthermore, private organizations could use their copyright to impose conditions on access to standards incorporated in the law, such as requiring people to submit personal information to read the law and to waive the ability to download, print, copy, or disseminate the law. Again, all of these conditions run counter to the very idea that laws should be freely accessible to everyone.

We ask that you oppose this legislation and make clear that the law cannot be owned and controlled.

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If you have any questions, please contact Katharine Trendacosta, EFF's Director of Policy and Advocacy at katharine@eff.org.

Sincerely,

The Electronic Frontier Foundation