

## HR 2045

### Targeting Rogue and Opaque Letters Act of 2015

**Congress:** 114 (2015–2017, Ended)

**Chamber:** House

**Policy Area:** Commerce

**Introduced:** Apr 28, 2015

**Current Status:** Placed on the Union Calendar, Calendar No. 688.

**Latest Action:** Placed on the Union Calendar, Calendar No. 688. (Dec 16, 2016)

**Official Text:** <https://www.congress.gov/bill/114th-congress/house-bill/2045>

## Sponsor

**Name:** Rep. Burgess, Michael C. [R-TX-26]

**Party:** Republican • **State:** TX • **Chamber:** House

## Cosponsors (7 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Harper, Gregg [R-MS-3]	R · MS		Apr 28, 2015
Rep. Kaptur, Marcy [D-OH-9]	D · OH		Apr 28, 2015
Rep. Kinzinger, Adam [R-IL-16]	R · IL		Apr 28, 2015
Rep. Lance, Leonard [R-NJ-7]	R · NJ		Apr 28, 2015
Rep. Mullin, Markwayne [R-OK-2]	R · OK		Apr 28, 2015
Rep. Fleming, John [R-LA-4]	R · LA		Aug 4, 2015
Rep. Brooks, Mo [R-AL-5]	R · AL		Nov 14, 2016

## Committee Activity

Committee	Chamber	Activity	Date
Energy and Commerce Committee	House	Referred to	May 1, 2015

## Subjects & Policy Tags

### Policy Area:

Commerce

## Related Bills

Bill	Relationship	Last Action
114 S 632	Related bill	Feb 25, 2016: Committee on Small Business and Entrepreneurship. Hearings held. Hearings printed: S.Hrg. 114-603.

(This measure has not been amended since it was introduced. The summary has been expanded because action occurred on the measure.)

### **Targeting Rogue and Opaque Letters Act of 2015**

(Sec. 2) This bill directs the Federal Trade Commission (FTC), and authorizes state attorneys general, to enforce against written communications (commonly referred to as demand letters) that represent in bad faith that the recipient bears liability or owes compensation for infringing an asserted patent. The pattern or practice of sending such bad faith demand letters shall be treated as an unfair or deceptive act or practice in violation of the Federal Trade Commission Act.

The bill sets forth the types of bad faith representations, assertions of legal action, claims of a sender holding an exclusive license, compensation requests, or omissions that are considered to be unfair or deceptive.

The bill provides an affirmative defense if the sender can show that statements, representations, or omissions were mistakes made in good faith, which may be demonstrated by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(Sec. 3) The bill provides the FTC with authority to enforce against violations.

(Sec. 4) The bill preempts state or local laws expressly relating to the transmission or contents of communications regarding the assertion of patent rights. But the bill shall not be construed to limit any other state laws, including those relating to consumer protection, fraud, deception, trespass, contracts, or torts.

State attorneys general may bring civil actions in federal court to enjoin violations or obtain civil penalties for violations of this bill. The maximum civil penalty for which a person may be liable for a series of related violations is \$5 million.

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### **Actions Timeline**

- **Dec 16, 2016:** Reported by the Committee on Energy and Commerce. H. Rept. 114-877.
- **Dec 16, 2016:** Placed on the Union Calendar, Calendar No. 688.
- **May 1, 2015:** Referred to the Subcommittee on Commerce, Manufacturing, and Trade.
- **Apr 29, 2015:** Committee Consideration and Mark-up Session Held.
- **Apr 29, 2015:** Ordered to be Reported by the Yeas and Nays: 30 - 22.
- **Apr 28, 2015:** Introduced in House
- **Apr 28, 2015:** Referred to the House Committee on Energy and Commerce.
- **Apr 28, 2015:** Committee Consideration and Mark-up Session Held.