

Text of amended FOSTA as passed by HJC on 12 December 2017:
<https://judiciary.house.gov/wp-content/uploads/2017/12/ANS-HR-1865.pdf>

[Text of Walters amendment](#)

[Text from Manager's Amendment to SESTA: https://www.congress.gov/bill/115th-congress/senate-bill/1693/text](https://www.congress.gov/bill/115th-congress/senate-bill/1693/text)

This Act may be cited as the "Allow States and Victims to Fight Online Sex Trafficking Act of 2017".

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

- (1) section 230 of the Communications Act of 1934 (47 U.S.C. 230; commonly known as the "Communications Decency Act of 1996") was never intended to provide legal protection to websites that unlawfully promote and facilitate prostitution and contribute to sex trafficking;
- (2) websites that promote and facilitate prostitution have been reckless in allowing the sale of sex trafficking victims and have done nothing to prevent the trafficking of children and victims of force, fraud, and coercion; and
- (3) clarification of such section is warranted to ensure that such section does not provide such protection to such websites.

SEC. 3. PROMOTION OF PROSTITUTION AND RECKLESS DISREGARD OF SEX TRAFFICKING.

(a) PROMOTION OF PROSTITUTION.—Chapter 117 of title 18, United States Code, is amended by inserting after section 2421 the following:

"§ 2421A. Promotion or facilitation of prostitution and reckless disregard of sex trafficking
"(a) IN GENERAL.—Whoever uses or operates a facility or means of interstate or foreign commerce or attempts to do so with the intent to promote or facilitate the prostitution of another person shall be fined under this title, imprisoned for not more than 10 years, or both.

"(b) AGGRAVATED VIOLATION.—Whoever uses or operates a facility or means of interstate or foreign commerce with the intent to promote or facilitate the prostitution of another person and—

- "(1) promotes or facilitates the prostitution of 5 or more persons; or
- "(2) acts in reckless disregard of the fact that such conduct contributed to sex trafficking, in violation of 1591(a),

shall be fined under this title, imprisoned for not more than 25 years, or both.

“(c) CIVIL RECOVERY.—Any person injured by reason of a violation of section 2421A(b) may recover damages and reasonable attorneys’ fees in an action before any appropriate United States district court. Consistent with section 230 of the Communications Act of 1934 (47 U.S.C. 230), a defendant may be held liable, under this subsection, where promotion or facilitation of prostitution activity includes responsibility for the creation or development of all or part of the information or content provided through any interactive computer service.

“(d) MANDATORY RESTITUTION.—Notwithstanding sections 3663 or 3663A and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this section.

“(e) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating subsection (a) where the defendant proves, by a preponderance of the evidence, that the promotion or facilitation of prostitution is legal in the jurisdiction where the promotion or facilitation was targeted.”.

(c) TABLE OF CONTENTS.—The table of contents for such chapter is amended by inserting after the item relating to section 2421 the following:

“2421A. Promotion or facilitation of prostitution and reckless disregard of sex trafficking.”.

SEC. 4. ~~COMMUNICATIONS DECENTY ACT~~ **ENSURING ABILITY TO ENFORCE FEDERAL AND STATE CRIMINAL AND CIVIL LAW RELATING TO SEX TRAFFICKING.**

~~(A) IN GENERAL—SECTION 230~~Section 230(e) of the Communications Act of 1934 (47 U.S.C. 230(e)) is amended by adding at the end the following:

~~(5) NO EFFECT ON SEX TRAFFICKING LAW.—~~

Nothing in this section ~~[other than subsection (c)(2)(A)]~~ shall be construed to impair or limit—

~~(A) any claim in a civil action brought under Section 1595 of title 18, United States Code, if the conduct underlying the claim constitutes a violation of section 1591 of that title;~~

~~(B) any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section 1591(a) of title 18, United States Code; or~~

~~(C) any charge in a criminal prosecution brought under State law “(5) NO EFFECT ON STATE LAWS CONFORMING TO 18 U.S.C. 1591(A) OR 2421A.— Nothing in this section shall be construed to impair or limit any charge in a criminal prosecution brought under State law —~~

“(A) if the conduct underlying the charge would constitutes a violation of section 2421A of title 18, United States Code, and promotion or facilitation of prostitution is illegal in the jurisdiction where the defendant’s promotion or facilitation of prostitution was targeted.

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(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and the amendment made by subsection (a) shall apply regardless of whether the conduct alleged occurred, or is alleged to have occurred, before, on, or after such date of enactment.

SEC. 5 ENSURING FEDERAL LIABILITY FOR PUBLISHING INFORMATION DESIGNED TO FACILITATE SEX TRAFFICKING OR OTHERWISE FACILITATING SEX TRAFFICKING.

Section 1591(e) of title 18, United States Code, is amended—

1591(e)(4) The term ‘participation in a venture’ means knowingly assisting, supporting, or facilitating a violation of subsection (a)(1).

SEC. 6 ACTIONS BY STATE ATTORNEYS GENERAL

(a) IN GENERAL.—Section 1595 of title 18, United States Code, is amended by adding at the end the following:

“(d) In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates section 1591, the attorney general of the State, as parens patriae, may bring a civil action against such person on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.”

SEC. 75. SAVINGS CLAUSE.

Nothing in this Act or the amendments made by this Act shall be construed to limit or preempt any civil action or criminal prosecution under Federal law or State law (including State statutory law and State common law) filed before or after the day before the date of enactment of this Act that was not limited or preempted by section 230 of the Communications Act of 1934 (47 U.S.C. 230), as such section was in effect on the day before the date of enactment of this Act.