To amend the Communications Act of 1934 to clarify that section 230 of such Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sexual exploitation of children or sex trafficking, and for other purposes.
Additional sponsors: Mr. Smucker, Mr. Stivers, Mr. Weber of Texas, Mr. Fleischmann, Mr. Lance, Ms. Sewell of Alabama, Mr. Roskam, Mr. Rouzer, Ms. Moore, Mr. Shimkus, Mr. Vargas, Mr. Turner, Ms. Rosen, Mrs. Hartinger, Mr. Evans, Mr. Garrett, Ms. Katko, Ms. Kelly of Illinois, Ms. Wilson of Florida, Mr. LaHood, Mr. Coffman, Mr. Luetkemeyer, Mr. Bishop of Michigan, Ms. Stefanik, Mr. Crist, Mr. Carrajal, Mrs. Comstock, Mr. Rooney Davis of Illinois, Mr. Thomas J. Rooney of Florida, Mr. Graves of Missouri, Mr. Smith of Missouri, Mr. Zeldin, Mr. MacArthur, Mr. Pittenger, Mr. Conway, Mr. Young of Iowa, Mr. Walker, Mr. Walberg, Mr. Harris, Mr. Messer, Mr. Smith of Texas, Mr. Brat, Mr. Poliquin, Mr. Valadao, Mrs. Mimi Walters of California, Mr. Gibbs, Ms. Herrera Beutler, Mr. Long, Mr. Butterfield, Mr. Payne, Ms. Bass, Mrs. Eddie Bernice Johnson of Texas, Ms. Hanabusa, Ms. Blunt Rochester, Mrs. Lawrence, Ms. DeLauro, Ms. Michelle Lujan Grisham of New Mexico, Mr. Hastings, Mr. Richmond, Mrs. Love, Mr. Clay, Mr. Kildee, Mr. Brown of Maryland, Ms. Plaskett, Ms. Adams, Mr. Thompson of Mississippi, Mr. Cleaver, Mr. Bost, Ms. Tenney, Mr. Hudson, Mrs. Handel, Mr. CueLLar, Mr. Cole, Mr. Bilirakis, Mrs. Noem, Mrs. Brooks of Indiana, Ms. Ros-Lehtinen, Mr. Ross, Mr. Kelly of Mississippi, Mr. Donovan, Ms. Kuster of New Hampshire, Mr. Bishop of Georgia, Mrs. Watson Coleman, Mr. Palmer, Mr. Davidson, Ms. Foxx, Mrs. Black, Mr. Connolley, Mr. Faso, Mr. Rothfus, Mr. McCaul, Mr. Fitzpatrick, Mrs. Walorski, Mr. Reed, Mr. Joyce of Ohio, Mr. Brady of Pennsylvania, Mr. Stewart, Mr. Franks of Arizona, Ms. Sinema, Mr. Rush, Mr. Meeks, Mr. O’Halloran, Mr. Johnson of Louisiana, Mr. Posey, Mr. Jenkins of West Virginia, Mr. Gonzalez of Texas, Mr. Danny K. Davis of Illinois, Mr. McGovern, Mr. Gene Green of Texas, Mr. Lewis of Georgia, Mr. Espaillat, Mr. Keating, Mr. Nolan, Ms. Titus, Mr. Sean Patrick Maloney of New York, Mr. Serrano, Mr. DesJarlais, Mr. Curbelo of Florida, Mr. Aderholt, Mr. Hultgren, Mrs. Blackburn, Mr. Fortenberry, Mr. Kelly of Pennsylvania, Mr. King of Iowa, Mr. LaMalfa, Mr. Lamborn, Mr. Olson, Mr. Pearce, Mr. Sessions, Mr. Wilson of South Carolina, Mr. Cohen, Ms. Norton, Mr. Frelinghysen, Mr. Paulsen, Mr. Reichert, Mr. Roe of Tennessee, Mr. Brady of Texas, Mr. Flores, Mr. Shuster, Mr. Hollingsworth, Mr. Byrne, Mr. Austin Scott of Georgia, Mr. Lawson of Florida, Miss Rice of New York, Mr. Mullin, Mr. Guthrie, Mr. Tiberi, Mr. Gohmert, Mr. Rice of South Carolina, Mr. Williams, Mr. Barletta, Mr. Sensenbrenner, Mr. Marshall, Mr. Burgess, Mr. Knight, Mr. Kustoff of Tennessee, Mr. Lucas, Ms. Velázquez, Mr. Capuano, Mr. Culberson, Mr. Perlmutter, Ms. Wasserman Schultz, Mr. Costa, Mr. Calvert, and Mr. Yoho

Deleted sponsor: Mr. McNerney (added September 13, 2017; deleted September 25, 2017)
FEBRUARY 20, 2018

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

FEBRUARY 20, 2018

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 3, 2017]
A BILL

To amend the Communications Act of 1934 to clarify that section 230 of such Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sexual exploitation of children or sex trafficking, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Allow States and Vic-
tims 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 “Com-
munications Decency Act of 1996”) was never in-
tended to provide legal protection to websites that un-
lawfully promote and facilitate prostitution and con-
tribute to sex trafficking;

(2) websites that promote and facilitate prostitu-
tion have been reckless in allowing the sale of sex traf-
ficking 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 protec-
tion 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 appro
priate 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.”.

(b) 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 DECENCY ACT.

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 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 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; or

“(B) if the conduct underlying the charge constitutes a violation of section 1591(a) of title 18, United States Code.”.

SEC. 5. 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.
To amend the Communications Act of 1934 to clarify that section 230 of such Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sexual exploitation of children or sex trafficking, and for other purposes.

A BILL

[Report No. 115-572, Part I]

H. R. 1865

115TH CONGRESS

FEBRUARY 20, 2018

Reported from the Committee on the Judiciary with an amendment.

FEBRUARY 20, 2018

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed.