

SENATE CONCURRENT RESOLUTION No. 125

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED AUGUST 3, 2020

Sponsored by:
Senator NELLIE POU
District 35 (Bergen and Passaic)

SYNOPSIS

Urges Congress to amend the “Communication Decency Act of 1996.”

CURRENT VERSION OF TEXT

As introduced.



1 **A CONCURRENT RESOLUTION** urging the Congress to amend the
2 “Communications Decency Act of 1996.”
3
4 **WHEREAS**, The “Communication Decency Act of 1996,” 47 U.S.C.
5 section 230 (the “CDA”) provides that no provider or user of an
6 interactive computer service shall be treated as the publisher or
7 speaker of any information provided by another information content
8 provider, effectively immunizing internet service providers and
9 users from liability for tortuous acts committed by third parties; and
10 **WHEREAS**, Section 230 of the CDA goes on to provide that no liability
11 may be imposed under any state or local law that is inconsistent
12 with the intention of the CDA; and
13 **WHEREAS**, The broader original intent of the CDA was to protect
14 children from internet pornography, but is now used as a shield by
15 those who would profit from prostitution and crimes against
16 children; and
17 **WHEREAS**, It is well within the traditional jurisdiction of state and
18 local authorities to investigate and prosecute those who promote
19 prostitution and endanger the welfare of children; and
20 **WHEREAS**, Two recent United States District Court rulings,
21 Backpage.com, LLC v. McKenna, 881 F. Supp. 2d 1262 (W.D.
22 Wash. 2012) and Backpage.com, LLC v. Cooper, 939 F. Supp. 2d.
23 (M.D. Tenn. 2013) struck down state statutes in Washington and
24 Tennessee respectively, criminalizing advertizing sexual abuse of a
25 minor; and
26 **WHEREAS**, On August 20, 2013 the United States District Court for
27 the District of New Jersey in the case of Backpage.com, LLC v.
28 Hoffman, 2013 U.S. Dist. LEXIS 119811, 2013 WL 4502097
29 granted a motion to enjoin the enforcement of portions of N.J.S.A.
30 2C:13-10, a section of New Jersey’s “Human Trafficking
31 Prevention, Protection, and Treatment Act,” an enactment signed
32 into law on May 6, 2013, which relates to advertising commercial
33 sexual abuse of a minor, and makes the act of publishing,
34 disseminating or displaying an offending online post directly or
35 indirectly a crime of the first degree; and
36 **WHEREAS**, The grant of injunctive relief in the Hoffman decision is
37 based on the determination that relevant portions of N.J.S.A.
38 2C:13-10 are similar to McKenna and Cooper, and likely
39 preempted by federal law; and
40 **WHEREAS**, Federal, state and local law enforcement have as a
41 common goal, the prevention of child sex trafficking and other
42 child sexual exploitation, goals which can best be accomplished
43 when the law enforcement entities are able to investigate and
44 prosecute in areas within their jurisdiction, and need not conflict
45 with the declared self-policing goals of the CDA; and
46 **WHEREAS**, The National Association of Attorneys General have, by
47 correspondence dated July 23, 2013, requested that Congress
48 amend the CDA to grant jurisdiction to state and local governments

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1 to investigate and prosecute those who promote prostitution and
2 endanger children; now, therefore,

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4 **BE IT RESOLVED** by the Senate of the State of New Jersey (the
5 General Assembly concurring):

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7 1. The Congress of the United States is respectfully requested
8 to amend 47 U.S.C. section 230(e)(1) to the following language:
9 “Nothing in this section shall be construed to impair the
10 enforcement of section 223 or 231 of this Act, chapter 71 (relating
11 to obscenity) or 110 (relating to sexual exploitation of children) of
12 title 18, United States Code, or any other Federal or State criminal
13 statute.”

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15 2. Copies of this resolution, as filed with the Secretary of State,
16 shall be transmitted by the Secretary of the Senate or the Clerk of
17 the General Assembly to the President and Vice President of the
18 United States, the Majority and Minority Leaders of the United
19 States Senate, the Speaker and Minority Leader of the United States
20 House of Representatives, and every member of Congress elected
21 from this State.

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24 STATEMENT

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26 This bill respectfully requests that the Congress of the United
27 States amend 47 U.S.C. section 230(e)(1) of the “Communication
28 Decency Act of 1996,” 47 U.S.C. section 230 (the “CDA”) to the
29 following language: “Nothing in this section shall be construed to
30 impair the enforcement of section 223 or 231 of this Act, chapter 71
31 (relating to obscenity) or 110 (relating to sexual exploitation of
32 children) of title 18, United States Code, or any other Federal or
33 State criminal statute.”

34 Currently, the CDA, which immunizes internet service providers
35 and users from liability for tortuous acts committed by third parties,
36 effectively thwarts the enforcement of state criminal laws intended
37 to investigate and prosecute those who promote child prostitution
38 and child sexual exploitation.