



Stop SESTA

The “Stop Enabling Sex Traffickers Act” or SESTA may be well intentioned, but it aims at the wrong target. Instead of focusing on finding and punishing sex traffickers, this bill focuses on Internet platforms and restricting speech online. SESTA impacts any platform that hosts user-generated content by rolling back Section 230 protections.

Websites and apps we all use every day – from WhatsApp and Instagram to Yelp and Wikipedia, even bloggers with comments sections – rely on this protection. Under the current system, users are generally liable for the content they post, not the platforms. If SESTA passes, these platforms will be exposed to significantly more liability for what their users do with their services. That will create an incentive to review anything a user wants to post, if the platform decided to allow user content at all.

Section 230 can be credited with creating today’s Internet. It provided the legal buffer entrepreneurs needed to experiment with new ways to connect people online and is just as critical for today’s startups as it was for today’s popular platforms when they launched.

Section 230 is Not Broken

- Existing law allows federal prosecutors to go after bad online platforms, like Backpage.com, that knowingly play a role in sex trafficking.
- In 2015, Congress passed the [SAVE Act](#), giving federal prosecutors an additional tool to target sex traffickers by including “advertising” sex trafficking as a federal crime. Section 230 does not prohibit federal prosecutions against platforms that host ads they know to involve sex trafficking.
- Courts have allowed civil claims against online platforms when a platform was shown to have a direct hand in creating the illegal user-generated content. Even without SESTA, victims of sex trafficking can bring civil suits against culpable websites, as well as the pimps and “johns” who directly harmed them.

SESTA dangerously expands federal criminal intermediary liability

- Under current federal criminal law, it’s a crime for a person or entity to advertise sex trafficking or benefit financially from an ad for sex trafficking. In fact, this law was intended to target individuals or companies who know the ads are for sex trafficking, such as Backpage.com.
- SESTA would create new liabilities for any person or entity who “assists, supports, or facilitates” sex trafficking.
- These terms are vague, which creates fertile soil for new litigation. Juries and courts would no longer need to be convinced that platforms *knew* that sex trafficking existed on their site, only that they *should have known* that their services were “facilitating” sex trafficking.
- SESTA threatens the open Internet. It would incentivize platforms to act as gatekeepers or over-censor what their users posts. Platforms might be tempted to automate these processes. But while filtering algorithms do exist, no filtering algorithm can detect completely legitimate speech all of the time. Legal speech will inevitably get restricted, raising concerns of [private censorship](#).

Congress made the deliberate choice to protect online free speech and innovation, while providing discrete tools—including the SAVE Act of 2015—to go after the culpable platforms. Internet speech is more important, not less, than it was when Section 230 was created.

For more information on problems with SESTA, please contact India McKinney at india@eff.org