

Internet Freedom Suffers in Passage of Senate Human Trafficking Bill

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Senators sneak through SAVE Act as amendment, creating criminal liability for classified-ad sites.



With an agreement now reached on (not) funding abortions for trafficking victims, the U.S. Senate voted unanimously Wednesday to pass the "Justice for Victims of Trafficking Act" (JVTA). The bill had been much-debated on the Senate floor and in the media. But with little fanfare or discussion, Senators tacked on a late amendment to the legislation which radically alters the rules for Internet publishers. Known as the "Stop Advertising Victims of Exploitation" (SAVE) Act, the change is vehemently opposed by a broad coalition of free speech, web publishing, and civil liberties advocates.

If the SAVE amendment ultimately passes—the whole trafficking package now goes to the U.S. House—it would go against decades of precedent related to web publishers and user-generated content. In general, the owners of websites and online publications cannot be held criminally liable for the things that random people post. Under the new rules, however, these entities could be charged as sex traffickers if it turns out any trafficking victims are advertised on the site. Sponsors have specifically stated that their intent is to shut down, or at least seriously cripple, the classified-ad site Backpage.com.

Last summer, more than 20 groups—including the American Civil Liberties Union, the Electronic Frontier Foundation, and the American Society of News Editors—and law professors came out against the SAVE Act, which they said would "place unconstitutional burdens on the free speech and privacy rights of millions of Americans," lead to fewer free and low-cost web publications and services, disproportionately harm small businesses, and "discourage good-faith screening and content moderation efforts by content hosts."

In the lead-up to yesterday's passage of the Justice for Victims of Trafficking Act, Senators spent ample energy debating whether a crime-victims fund set up by the bill could be used to cover trafficking victims' abortions. But they devoted little attention to the advertising amendment, leaving even folks who've been following the trafficking bill in surprise that the SAVE Act was part of the deal.

Only two Senators, Sen. Ron Wyden (D-Ore.) and Sen. Maria Cantwell (D-Wash.), voted against the SAVE amendment. Other amendments to the JVTA approved yesterday include a provision to train airport and border security officials to "deter, detect, and disrupt human trafficking," and one "to increase the amount provided under certain formula grants to States that

have in place laws that terminate the parental rights of men who father children through rape."

But the heart of the JVTa, as I noted in March,

... is a change to federal criminal code that would make soliciting sex from a trafficking victim a crime tantamount to sex trafficking itself, even if a defendant doesn't know the individual was forced or coerced. But the legislation also authorizes and funds a wide variety of community, state, and federal initiatives designed to prosecute human trafficking, as well as efforts to fight other "illicit sexual conduct," "illicit e-commerce," and cybercrime.

For more on the particulars of the JVTa, see [here](#) and [here](#). For more on the SAVE Act, see Noah Berlatsky's rundown [here](#). And if you think chilling web-censorship efforts are limited to the legislature, see Brian Doherty on the FBI's ongoing war on online vice.