

Josh Kaul
Wisconsin Attorney General



P.O. Box 7857
Madison, WI 53707-7857

NEWS FOR IMMEDIATE RELEASE

May 23, 2019

**AG Kaul Urges Congress to Hold Internet Service Providers Accountable,
Maintain States' Rights**

MADISON, Wis. – Attorney General Josh Kaul joined 46 other attorneys general across the country this week to ask Congress, again, to amend the Communications Decency Act in order to make sure state and local authorities can protect our citizens online and take appropriate action against criminal actors.

“Federal law shouldn’t protect companies that profit from online criminal activity from prosecution under state law,” said Attorney General Kaul. “Along with AGs from across the country, I encourage Congress to amend the Communications Decency Act so it doesn’t interfere with the enforcement of state criminal laws.”

The Communication Decency Act of 1996 (CDA) was designed to encourage the growth of the internet by promoting free expression, particularly on online message boards. The Act was intended to allow companies who sponsor message boards to remain immune to repercussions from inappropriate post.

However, due to a misinterpretation of Section 230 of the Act, some federal court opinions have interpreted it so broadly that individuals and services, which knowingly aid and profit from illegal activity, have evaded prosecution. This precludes states and territories from enforcing their criminal laws against companies that, while not actually performing these unlawful activities, provide platforms that make these activities possible.

“Stop Enabling Sex Traffickers Act” and “Allow States and Victims to Fight Online Sex Trafficking Act” (known as FOSTA-SESTA) was signed into law in 2018, making

clear that the CDA's immunity does not apply to enforcement of federal or state sex trafficking laws. Unfortunately, the abuse on these platforms does not stop at sex trafficking but includes many kinds of illegal activity such as online black market opioid sales, identity theft, and election meddling.

Section 230 expressly exempts prosecution of federal crimes from the safe harbor, but "addressing criminal activity cannot be relegated to federal enforcement alone simply because the activity occurs online," the letter states. "Attorneys General must be allowed to address these crimes themselves and fulfill our primary mandate to protect our citizens and enforce their rights."

Attorneys general have addressed this issue with Congress before. In 2013 and 2017, nearly every state and territory AG wrote to inform Congress of the damaging misinterpretation and misapplication of Section 230 of the CDA.

The letter to Congress is attached.