

**ASSEMBLY CONCURRENT  
RESOLUTION No. 64**

**STATE OF NEW JERSEY  
216th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 2/21/2014)**

ACR64 VAINIERI HUTTLE, WIMBERLY

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- 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, 2013 U.S. Dist.  
23 LEXIS 55100, 2013 WL 1558785 (M.D. Tenn. Jan. 3, 2013) struck  
24 down state statutes in Washington and Tennessee respectively,  
25 criminalizing advertizing sexual abuse of a 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, WL 4502097 granted a  
29 motion to enjoin the enforcement of portions of N.J.S.A. 2C:13-10,  
30 a section of New Jersey’s “Human Trafficking Prevention,  
31 Protection, and Treatment Act,” an enactment signed into law on  
32 May 6, 2013, which relates to advertising commercial sexual abuse  
33 of a minor, and makes the act of publishing, disseminating or  
34 displaying an offending online post directly or indirectly a crime of  
35 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, likely preempted by  
39 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

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

ACR64 VAINIERI HUTTLE, WIMBERLY

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1 **WHEREAS**, The National Association of Attorneys General have, by  
2 correspondence dated July 23, 2013, requested that Congress  
3 amend the CDA to grant jurisdiction to state and local governments  
4 to investigate and prosecute those who promote prostitution and  
5 endanger children; now therefore,

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

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

16

17 2. Duly authenticated copies of this resolution, signed by the  
18 Speaker of the General Assembly and President of the Senate and  
19 attested by the Clerk of the General Assembly and the Secretary of  
20 the Senate, shall be transmitted to the Majority and Minority  
21 Leaders of the United States Senate, the Speaker and Minority  
22 Leader of the United States House of Representatives, and every  
23 member of Congress elected from this State.

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STATEMENT

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

35

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