To amend the Communications Act of 1934 to provide accountability for bad actors who abuse the Good Samaritan protections provided under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HAWLEY (for himself, Mr. RUBIO, Mr. COTTON, Mr. BRAUN, and Mrs. LOEFFLER) introduced the following bill; which was read twice and referred to the Committee on ____________

A BILL

To amend the Communications Act of 1934 to provide accountability for bad actors who abuse the Good Samaritan protections provided under that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Limiting Section 230 Immunity to Good Samaritans Act”.

SEC. 2. SCOPE OF PROTECTION.

Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—
(1) in subsection (c)—

(A) in paragraph (1)—

(i) by striking “No provider” and inserting the following:

“(A) IN GENERAL.—Subject to subparagraph (B), no provider”; and

(ii) by adding at the end the following:

“(B) CONDITION.—With respect to an edge provider, subparagraph (A) shall only apply if the provider adopts and maintains written terms of service that—

“(i) take precedence over other such terms in case of any conflict between the sets of terms;

“(ii) describe any policies of the edge provider relating to restricting access to or availability of material; and

“(iii) promise that the edge provider shall—

“(I) design and operate the provided service in good faith; and

“(II) if the provider is found, in a civil action brought in Federal or State court, or by an arbitrator, to
breach the promise made under sub-
clause (I) with respect to a claimant
user, pay that user—

“(aa) the greater of—

“(AA) damages of not
less than $5,000; or

“(BB) actual damages;

and

“(bb) with respect to litiga-
tion or arbitration by the user to
enforce the promise—

“(AA) a reasonable at-
torney’s fee; and

“(BB) costs and other
expenses described in sec-
tions 1821 and 1920 of title
28, United States Code (or,
in the case of an action
brought in State court or
through arbitration, any
similar costs and other ex-
penses).

(B) by adding at the end the following:
“(3) GOOD FAITH.—For the purposes of this subsection, a provider of an interactive computer service—

“(A) acts in good faith if the provider acts with an honest belief and purpose, observes fair dealing standards, and acts without fraudulent intent; and

“(B) does not act in good faith if the provider takes an action that includes—

“(i) the intentionally selective enforcement of the terms of service of the interactive computer service, including the intentionally selective enforcement of policies of the provider relating to restricting access to or availability of material;

“(ii) enforcing the terms of service of the interactive computer service, including enforcing policies of the provider to restrict access to or availability of material, against a user by employing an algorithm that selectively enforces those terms, if the provider knows, or acts in reckless disregard of the fact, that the algorithm selectively enforces those terms;
“(iii) the intentional failure to honor a public or private promise made by, or on behalf of, the provider; or

“(iv) any other intentional action taken by the provider without an honest belief and purpose, without observing fair dealing standards, or with fraudulent intent.”;

(2) in subsection (e), by adding at the end the following:

“(6) No effect on legal promises.—Nothing in this section shall be construed to impair or limit any claim for breach of contract, promissory estoppel, or breach of a duty of good faith.”; and

(3) in subsection (f), by adding at the end the following:

“(5) Edge provider.—The term ‘edge provider’—

“(A) means an entity that—

“(i) provides an interactive computer service—

“(I) through a website, online application, or mobile application (includ-
service that is provided through more than 1 such website or application);

“(II) through which information provided by another information content provider is distributed; and

“(III) that, in any month during the most recently completed 12-month period—

“(aa) more than 30,000,000 users in the United States accessed, without regard to the means by which the users accessed the service; or

“(bb) more than 300,000,000 users worldwide accessed, without regard to the means by which the users accessed the service; and

“(ii) during the most recently completed taxable year, had more than $1,500,000,000 in global revenue; and

“(B) does not include an organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code.”.