

117TH CONGRESS
2D SESSION

H. R. 8306

To amend the Communications Act of 1934 to permit State attorneys general to recover forfeiture penalties determined by the Federal Communications Commission for certain violations of section 227(b) of such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2022

Mr. HUDSON introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Communications Act of 1934 to permit State attorneys general to recover forfeiture penalties determined by the Federal Communications Commission for certain violations of section 227(b) of such Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Infringements
5 Need Enforcement Act” or the “FINE Act”.

1 **SEC. 2. RECOVERY BY STATE ATTORNEYS GENERAL OF**
2 **CERTAIN FORFEITURE PENALTIES DETER-**
3 **MINED BY FCC.**

4 (a) IN GENERAL.—Section 227(b) of the Commu-
5 nications Act of 1934 (47 U.S.C. 227(b)) is amended by
6 adding at the end the following:

7 “(5) RECOVERY BY STATE ATTORNEYS GEN-
8 ERAL OF FORFEITURE PENALTIES FOR VIOLATIONS
9 WITH INTENT.—

10 “(A) CIVIL ACTION.—In any case in which
11 a State attorney general has reason to believe
12 that an interest of the residents of such State
13 has been adversely affected by a violation de-
14 scribed in paragraph (4)(B) for which the Com-
15 mission has determined a forfeiture penalty
16 under such paragraph, the State attorney gen-
17 eral may bring a civil action on behalf of the
18 residents of such State exclusively in a district
19 court of the United States of appropriate juris-
20 diction to recover any unpaid amount of such
21 forfeiture penalty.

22 “(B) DEPOSIT OF FUNDS IN TREASURY;
23 RETENTION OF COSTS.—

24 “(i) DEPOSIT.—Except as provided in
25 clause (ii), a State attorney general shall,
26 not later than 30 days after recovering any

1 funds in a civil action under subparagraph
2 (A), deposit such funds in the general fund
3 of the Treasury of the United States for
4 the sole purpose of deficit reduction.

5 “(ii) RETENTION.—A State attorney
6 general who recovers any funds in a civil
7 action under subparagraph (A) may retain
8 an amount of such funds equal to the
9 amount of costs incurred by the State at-
10 torney general in bringing such action.

11 “(C) CONSOLIDATION OF ACTIONS
12 BROUGHT BY TWO OR MORE STATE ATTORNEYS
13 GENERAL.—

14 “(i) IN GENERAL.—Except as pro-
15 vided in clause (ii), whenever a civil action
16 under subparagraph (A) is pending and
17 another civil action or actions are filed
18 under such subparagraph in a different
19 district court or courts of the United
20 States that involve one or more common
21 questions of fact, a defendant in such ac-
22 tions may elect for all such actions (or, if
23 the Attorney General of the United States
24 has intervened in two or more such actions
25 under subparagraph (D), the Attorney

1 General of the United States may elect for
2 all such actions in which the Attorney Gen-
3 eral of the United States has intervened)
4 to be transferred for the purposes of con-
5 solidated pretrial proceedings and trial to
6 the United States District Court for the
7 District of Columbia.

8 “(ii) EXCEPTION.—An action de-
9 scribed in clause (i) may not be transferred
10 under such clause if pretrial proceedings in
11 such action have been concluded before a
12 subsequent action described in such clause
13 is filed by a State attorney general. Noth-
14 ing in this clause may be construed to pro-
15 hibit the transfer of any other action de-
16 scribed in clause (i).

17 “(D) NOTICE TO AND INTERVENTION BY
18 ATTORNEY GENERAL OF THE UNITED
19 STATES.—

20 “(i) NOTICE.—A State attorney gen-
21 eral shall provide prior written notice of
22 any civil action under subparagraph (A) to
23 the Attorney General of the United States
24 and provide the Attorney General of the
25 United States a copy of the complaint of

1 the State attorney general in such action,
2 except in any case in which such prior no-
3 tice is not feasible, in which case the State
4 attorney general shall serve such notice im-
5 mediately upon filing such action.

6 “(ii) RIGHT TO INTERVENE.—The At-
7 torney General of the United States shall
8 have the right to intervene in a civil action
9 filed by a State attorney general under
10 subparagraph (A).

11 “(iii) EFFECT OF INTERVENTION.—

12 “(I) IN GENERAL.—If the Attor-
13 ney General of the United States in-
14 tervenes in an action filed by a State
15 attorney general under subparagraph
16 (A), the Attorney General of the
17 United States shall have the primary
18 responsibility for prosecuting the ac-
19 tion, and shall not be bound by an act
20 of the State attorney general. The
21 State attorney general shall have the
22 right to continue as a party to the ac-
23 tion, subject to the limitations set
24 forth in subclauses (II) through (IV).

1 “(II) DISMISSAL.—The Attorney
2 General of the United States may dis-
3 miss the action notwithstanding the
4 objections of the State attorney gen-
5 eral if the State attorney general has
6 been notified by the Attorney General
7 of the United States of the filing of
8 the motion and the court has provided
9 the State attorney general with an op-
10 portunity for a hearing on the motion.

11 “(III) LIMITATION OF PARTICI-
12 PATION ON SHOWING BY ATTORNEY
13 GENERAL OF THE UNITED STATES.—
14 Upon a showing by the Attorney Gen-
15 eral of the United States that unre-
16 stricted participation during the
17 course of the litigation by the State
18 attorney general would interfere with
19 or unduly delay the prosecution of the
20 case by the Attorney General of the
21 United States, or would be repeti-
22 tious, irrelevant, or for purposes of
23 harassment, the court may, in its dis-
24 cretion, impose limitations on the par-

1 participation by the State attorney gen-
2 eral, such as—

3 “(aa) limiting the number of
4 witnesses the State attorney gen-
5 eral may call;

6 “(bb) limiting the length of
7 the testimony of such witnesses;

8 “(cc) limiting the cross-ex-
9 amination of witnesses by the
10 State attorney general; or

11 “(dd) otherwise limiting the
12 participation by the State attor-
13 ney general in the litigation.

14 “(IV) LIMITATION OF PARTICIPA-
15 TION ON SHOWING BY DEFENDANT.—

16 Upon a showing by the defendant that
17 unrestricted participation during the
18 course of the litigation by the State
19 attorney general would be for pur-
20 poses of harassment or would cause
21 the defendant undue burden or unnec-
22 essary expense, the court may limit
23 the participation by the State attorney
24 general in the litigation.

1 “(E) RELATIONSHIP BETWEEN FEDERAL
2 AND STATE ACTIONS.—

3 “(i) NO FEDERAL ACTION AFTER
4 STATE ACTION FILED.—After a civil action
5 under subparagraph (A) has been filed by
6 a State attorney general, the Attorney
7 General of the United States may not
8 bring a separate action under section
9 504(a) to recover the same forfeiture pen-
10 alty against a defendant named in the civil
11 action filed by the State attorney general.

12 “(ii) NO STATE ACTION AFTER FED-
13 ERAL ACTION FILED OR INTERVENTION BY
14 ATTORNEY GENERAL OF THE UNITED
15 STATES.—If the Attorney General of the
16 United States has filed a civil action under
17 section 504(a) to recover a forfeiture pen-
18 alty determined under paragraph (4)(B), a
19 State attorney general may not bring a
20 civil action under subparagraph (A) to re-
21 cover the same forfeiture penalty against a
22 defendant named in the action filed by the
23 Attorney General of the United States. If
24 the Attorney General of the United States
25 has intervened in a civil action brought by

1 a State attorney general under subpara-
2 graph (A) to recover a forfeiture penalty
3 determined under paragraph (4)(B), no
4 additional State attorney general may
5 bring a civil action under such subpara-
6 graph to recover the same forfeiture pen-
7 alty against a defendant named in the civil
8 action intervened in by the Attorney Gen-
9 eral of the United States.

10 “(F) TRIAL DE NOVO.—Any action by a
11 State attorney general under subparagraph (A)
12 shall be a trial de novo.

13 “(G) NOTICE BY COMMISSION TO STATE
14 ATTORNEYS GENERAL.—Not later than 60 days
15 after determining a forfeiture penalty under
16 paragraph (4)(B), the Commission shall provide
17 notice of such forfeiture penalty to relevant (as
18 determined by the Commission) State attorneys
19 general.

20 “(H) RULE OF CONSTRUCTION.—For pur-
21 poses of bringing a civil action under subpara-
22 graph (A), nothing in this paragraph shall be
23 construed to prevent a State attorney general
24 from exercising the powers conferred on the

State attorney general by the laws of such State
to—

“(i) conduct investigations;

“(ii) administer oaths or affirmations;

or

“(iii) compel attendance of witnesses

or the production of documentary and

other evidence.

“(I) STATE ATTORNEY GENERAL DEFINED.—In this paragraph, the term ‘State attorney general’ means the chief legal officer of a State.”.

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 227(b)(4)(C), by inserting “paragraph (5) or” after “recoverable under”; and

(2) in section 504—

(A) in subsection (a)—

(i) by inserting “or as otherwise provided in section 227(b)(5) of this Act”

after “under section 503(b)(3) of this Act”; and

(ii) by striking “It shall be” and inserting “Except as provided in section 227(b)(5) of this Act, it shall be”; and

1 (B) in subsection (b), by inserting after
2 “such forfeitures” the following: “(or, in the
3 case of a suit instituted by a State attorney
4 general under section 227(b)(5) of this Act, the
5 State attorney general, and the Attorney Gen-
6 eral of the United States if the Attorney Gen-
7 eral of the United States has intervened in such
8 suit, upon request of the Commission, shall
9 take such actions as are necessary to dis-
10 continue such suit)”.

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