

SEX TOURISM PROHIBITION IMPROVEMENT ACT OF 2002

—————
JUNE 24, 2002.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4477]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4477) to amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sex Tourism Prohibition Improvement Act of 2002”.

SEC. 2. SECTION 2423 AMENDMENTS.

(a) **IN GENERAL.**—Section 2423 of title 18, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) **TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT.**—A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

“(c) **ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES.**—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

“(d) **ANCILLARY OFFENSES.**—Whoever arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 15 years, or both.

“(e) **ATTEMPT AND CONSPIRACY.**—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

“(f) **DEFINITION.**—As used in this section, the term ‘illicit sexual conduct’ means (1) a sexual act (as defined in section 2246) with a person that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person who the individual engaging in the commercial sex act, knows or should have known has not attained the age of 18 years.”.

(b) **CONFORMING AMENDMENT.**—Section 2423(a) of title 18, United States Code, is amended by striking “or attempts to do so.”.

PURPOSE AND SUMMARY

H.R. 4477, the “Sex Tourism Prohibition Improvement Act of 2002,” addresses a number of problems related to persons who travel to foreign countries and engage in illicit sexual relations with minors. Current law requires the Government to prove that the defendant traveled “for the purpose” of engaging in the illegal activity. Under this bill the Government would only have to prove that the defendant engaged in illicit sexual conduct with a minor while in a foreign country. This legislation also criminalizes the actions of sex tour operators by prohibiting persons from arranging, inducing, procuring, or facilitating the travel of a person knowing that such a person is traveling in interstate or foreign commerce for the purpose of engaging in illicit sexual conduct.

BACKGROUND AND NEED FOR THE LEGISLATION

Many developing countries have fallen prey to the serious problem of international sex tourism. According to the National Center for Missing and Exploited Children, child-sex tourism is a major component of the worldwide sexual exploitation of children and is increasing. There are more than 100 web sites devoted to promoting teenage commercial sex in Asia alone. Because poor countries are often under economic pressure to develop tourism, those governments often turn a blind eye toward this devastating problem because of the income it produces. Children around the world have become trapped and exploited by the sex tourism industry.

There would be no need for a sex tourism statute if foreign countries successfully prosecuted U.S. citizens or resident aliens for the child sex crimes committed within their borders. However, for reasons ranging from ineffective law enforcement, lack of resources, corruption, and generally immature legal systems, sex tourists often escape prosecution in the host countries. It is in those instances that the United States has an interest in pursuing criminal charges in the United States.

The Justice Department, Federal law enforcement agencies, the State Department and other U.S. entities expend significant resources assisting foreign countries most afflicted with sex tourism to improve their domestic response to such criminal offenses. Our assistance encompasses informal as well as formal training of foreign law enforcement officers and prosecutors in the investigation and prosecution of sex tourism crimes. By and large these countries reach out to the United States for help and some even blame the United States for the problem, arguing that many of the sex tourists are American. Some of the foreign or "host" countries experiencing significant problems with sex tourism, such as Nicaragua, Costa Rica, Thailand and the Philippines, have requested that the United States act to deal with this growing problem.

Current law requires the Government to prove that the defendant traveled to a foreign country with the intent to engage in sex with a minor. H.R. 4477 eliminates the intent requirement where the defendant completes the travel and actually engages in the illicit sexual activity with a minor. The bill also criminalizes the actions of sex tour operators by prohibiting persons from arranging, inducing, procuring, or facilitating the travel of a person knowing that such a person is traveling in interstate or foreign commerce for the purpose of engaging in illicit sexual conduct with a minor. This legislation will close significant loopholes in the law that persons who travel to foreign countries seeking sex with children are currently using to their advantage in order to avoid prosecution.

HEARINGS

The Committee's Subcommittee on Crime, Terrorism, and Homeland Security held 2 days of hearings on H.R. 4477 and other bills relating to similar issues. Testimony was received on May 1, 2002, from three (3) witnesses: (1) Michael J. Heimbach, Unit Chief, Crimes Against Children Unit, Federal Bureau of Investigation; (2) Ernie Allen, President and Chief Executive Officer for the National Center for Missing & Exploited Children; and (3) Lt. Bill Walsh, with the Dallas Internet Crimes Against Children Taskforce. On May 9, 2002, the Subcommittee received testimony from: Daniel Collins, Associate Deputy Attorney General, Office of the Attorney General, U.S. Department of Justice.

COMMITTEE CONSIDERATION

On May 9, 2002, the Subcommittee on Crime, Terrorism, and Homeland Security met in open session and ordered favorably reported the bill H.R. 4477, by voice vote, a quorum being present. On June 19, 2002, the Committee met in open session and ordered favorably reported the bill H.R. 4477 with amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes on H.R. 4477.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 4477 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4477, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 18, 2002.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4477, the Sex Tourism Prohibition Improvement Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 4477—Sex Tourism Prohibition Improvement Act of 2002.

H.R. 4477 would establish new Federal crimes relating to interstate or international travelers (or persons facilitating such travel) who engage in illegal sexual activity. CBO estimates that implementing the bill would not result in any significant cost to the Federal Government. Because enactment of H.R. 4477 could affect di-

rect spending and receipts, pay-as-you-go procedures would apply to the bill; however, CBO estimates that any impact on direct spending and receipts would not be significant.

S. 166 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no direct costs on State, local, or tribal governments.

Because H.R. 4477 would establish new Federal crimes, the Government would be able to pursue cases that it otherwise would not be able to prosecute. CBO estimates that any increase in costs for law enforcement, court proceedings, or prison operations would not be significant because of the small number of additional cases likely to be affected. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 4477 could be subject to criminal fines, the Federal Government might collect additional fines if the legislation is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and later spent. CBO expects that any additional receipts and direct spending would be negligible because of the small number of cases affected.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

SECTION 1. SHORT TITLE

The short title of the bill is the “Sex Tourism Prohibition Improvement Act of 2002.”

SECTION 2. SECTION 2423 AMENDMENTS

Section 2 of the bill amends 18 U.S.C. § 2423 to make it a crime for a U.S. citizen to travel to another country and engage in illicit sexual conduct with minors. Current law requires the Government to prove that the defendant traveled with the intent to engage in the illegal activity. Under this provision the Government would only have to prove that the defendant engaged in illicit sexual conduct with a minor while they were in a foreign country.

The legislation also amends current law to make it a crime for foreigners to travel into the U.S. for the purpose of engaging in illicit sexual relations with minors. Currently, if a foreigner travels into the United States for that purpose but does not travel interstate, there is a question as to whether or not his conduct is covered by the existing statute.

This section also criminalizes the actions of sex tour operators by prohibiting persons from arranging, inducing, procuring, or facilitating the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose

of engaging in illicit sexual conduct. “Illicit sexual conduct” is defined as (1) a sexual act (as defined in 18 U.S.C. § 2246) with a person that would be in violation of chapter 109A of title 18 if the sexual act occurred in the special maritime and territorial jurisdiction of the United States or (2) any commercial sex act (as defined in 18 U.S.C. § 1591) with a person who the individual engaging in the commercial sex act, knows or should have known has not attained the age of 18 years. Any violation of these provisions will subject a person to a sentence of a fine, imprisonment of up to 15 years, or both.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 2423 OF TITLE 18, UNITED STATES CODE

§ 2423. Transportation of minors

(a) **TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.**—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, **[or attempts to do so,]** shall be fined under this title, imprisoned not more than 15 years, or both.

[(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.—A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than 15 years, or both.]

(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT.—A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES.—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

(d) ANCILLARY OFFENSES.—Whoever arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the

purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 15 years, or both.

(e) ATTEMPT AND CONSPIRACY.—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) DEFINITION.—As used in this section, the term “illicit sexual conduct” means (1) a sexual act (as defined in section 2246) with a person that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person who the individual engaging in the commercial sex act, knows or should have known has not attained the age of 18 years.

MARKUP TRANSCRIPT

BUSINESS MEETING

TUESDAY, JUNE 18, 2002

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:06 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order.
[Intervening business.]

The next item on the agenda is H.R. 4477, the “Sex Tourism Prohibition Improvement Act of 2002.”

The Chair recognizes the gentleman from Texas, Mr. Smith, the Chairman of the Subcommittee on Crime, Terrorism, and Homeland Security.

Mr. SMITH. Mr. Chairman, the Subcommittee on Crime, Terrorism, and Homeland Security reports favorably the bill H.R. 4477 and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, H.R. 4477 will be considered as read and open for amendment at any point.

[The bill, H.R. 4477, follows:]

107TH CONGRESS
2D SESSION

H. R. 4477

To amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2002

Mr. SENSENBRENNER (for himself, Mr. HYDE, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism.

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 “Sex Tourism Prohibi-
5 tion Improvement Act of 2002”.

6 **SEC. 2. SECTION 2423 AMENDMENTS.**

7 (a) IN GENERAL.—Section 2423 of title 18, United
8 States Code, is amended by striking subsection (b) and
9 inserting the following:

1 “(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT
2 SEXUAL CONDUCT.—A person who travels in interstate
3 commerce or travels into the United States, or a United
4 States citizen or an alien admitted for permanent resi-
5 dence in the United States who travels in foreign com-
6 merce, for the purpose of engaging in any illicit sexual
7 conduct with another person shall be fined under this title
8 or imprisoned not more than 15 years, or both.

9 “(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN
10 FOREIGN PLACES.—Any United States citizen or alien ad-
11 mitted for permanent residence who travels in foreign
12 commerce, and engages in any illicit sexual conduct with
13 another person shall be fined under this title or imprisoned
14 not more than 15 years, or both.

15 “(d) ANCILLARY OFFENSES.—Whoever arranges, in-
16 duces, procures, or facilitates the travel of a person know-
17 ing that such a person is traveling in interstate commerce
18 or foreign commerce for the purpose of engaging in illicit
19 sexual conduct shall be fined under this title, imprisoned
20 not more than 15 years, or both.

21 “(e) ATTEMPT AND CONSPIRACY.—Whoever at-
22 tempts or conspires to violate subsection (a), (b), (c), or
23 (d) shall be punishable in the same manner as a completed
24 violation of that subsection.

1 “(f) DEFINITION.—As used in this section, the term
2 ‘illicit sexual conduct’ means a sexual act (as defined in
3 section 2246) with a person that would be in violation of
4 chapter 109A if the sexual act occurred in the special mar-
5 itime and territorial jurisdiction of the United States or
6 any commercial sex act (as defined in section 1591), with
7 a person who has not attained the age of 18 years.”.

8 (b) CONFORMING AMENDMENT.—Section 2423(a) of
9 title 18, United States Code, is amended by striking “or
10 attempts to do so”.

○

Chairman SENSENBRENNER. And the Chair recognizes himself for purposes of making a statement.

This bill is legislation I introduced along with Representatives Hyde and Smith to address a number of problems relating to persons who travel to foreign countries and then engage in illicit sexual relations with minors.

According to the National Center for Missing and Exploited Children, child sex tourism contributes to the sexual exploitation of children and is increasing. There are more than 100 Web sites devoted to promoting teenage commercial sex in Asia alone. Because poorer countries are often under economic pressure to develop tourism, these governments also often turn a blind eye toward this devastating problem because of the income it produces. Children around the world have become trapped and exploited by the sex tourism industry.

Current law requires the Government to prove that the defendant traveled to a foreign country with the intent to engage in sex with a minor. H.R. 4477 eliminates the intent requirement where the defendant completes the travel and actually engages in the illicit sexual activity with a minor.

This bill also criminalizes the actions of sex tour operators by prohibiting persons from arranging, inducing, procuring, or facilitating the travel of a person knowing that such person is traveling in interstate or foreign commerce for the purpose of engaging in illicit sexual conduct with a minor.

This legislation will close significant loopholes in the law that persons who travel to foreign countries seeking sex with children are currently using to their advantage in order to avoid prosecution.

I urge my colleagues to support the legislation and yield the balance of my time to the gentleman from Texas, Mr. Smith, for his comments.

Well, if the gentleman from Texas, Mr. Smith, has no comments, there are now how many votes on the floor? There are three votes on the floor. The Committee is recessed until 10 o'clock tomorrow morning.

[Whereupon, at 2:16 p.m., the Committee was adjourned.]

* * * * *

The Committee met, pursuant to notice, at 10:29 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order. A working quorum is present.

When the Committee recessed yesterday, pending was H.R. 4477, the "Sex Tourism Prohibition Improvement Act of 2002," upon which a motion to report favorably had been made. By previous order of the Committee, the bill had been considered as read and open for amendment at any point.

For what purpose does the gentleman from Texas seek recognition?

Mr. SMITH. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 4477, offered by Mr. Smith.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO H.R. 4477

OFFERED BY MR. SMITH

Page 3, line 6, strike the comma.

Page 3, line 7, insert "the individual engaging in the commercial sex act, knows or should have known" after "who".

Page 3, line 2, after "means" insert "(1)".

Page 3, line 5, strike "or" and insert "; or (2)".

Page 3, line 10, insert a comma after "so".

Chairman SENSENBRENNER. The gentleman from Texas is recognized for 5 minutes.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. Chairman, this amendment would address an issue that was raised at the Subcommittee and amend section 2(a) of the bill relating to the definition of illicit sexual conduct. The amendment also contains a technical change to section 2(b).

Under the current language of the bill, the definition of illicit sexual conduct includes "any commercial sex act with a person who has not attained the age of 18 years."

This definition would preclude a defendant from offering any evidence that he or she had no knowledge that the person was under the age of 18 and would create a strict liability crime. This amendment would insert language that would require the prosecution to prove beyond a reasonable doubt that the individual engaging in the commercial sex act knows or should have known that the person had not attained the age of 18.

This amendment is supported by the Department of Justice, and I urge my colleagues to support it as well. Mr. Chairman, I'd like to yield the balance of my time to the gentleman from Arizona, Mr. Flake.

Mr. FLAKE. I thank the gentleman for yielding. I thank the Chairman for bringing this bill forward.

In Arizona a few weeks ago, the ABC affiliate, channel 15, sent a group of reporters to Mexico, to the city of Puerto Vallarta. They

had a child there pose as an underage child, telling people that he was 14 years old and went to the beach, on the beachfront, just to see how big a problem this is.

This young boy was propositioned dozens of times within a couple of hours. And he openly told them that he was only 14. American men prowl the beaches there and proposition kids as young as 8 years old for sex and pornography.

It is a problem, and we need to deal with it. And this bill goes a long way toward closing the loophole of proving intent. And so these individuals not only to worry about their conscience, but they have to worry now about the Federal Government coming after them.

This is conduct that we cannot countenance, and I appreciate the Chairman bringing this bill forward, and I support it all the way. And I yield back.

Mr. SMITH. Mr. Chairman, I yield back the balance of my time as well.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Mr. Chairman, move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Mr. Chairman, I support the amendment. And I think when we left last time, the Chairman and the Chairman of the Subcommittee had opening statements, and I didn't have an opportunity to make an opening statement, so I think I would—

Chairman SENSENBRENNER. Go ahead.

Mr. SCOTT. Thank you.

Mr. Chairman, I'm pleased to join you in convening this markup of H.R. 4477, the "Sex Tourism Prohibition Improvement Act of 2002." The act expands a provision in law that is already overly broad, in my opinion, in that it includes two teenagers, one or both of whom travel from D.C. to Virginia, or vice versa, to engage in sex or heavy petting. They don't actually have to do under the bill; they have to travel with intent.

Current law also covers travel and foreign commerce by U.S. citizen or permanent resident alien for the purpose of engaging in such acts. Given the cultural differences around the world regarding age of maturity and sexual mores, we already paint with a broad brush in this area by making illegal that which may also be fairly normal in certain areas.

This bill expands the travel-with-intent provision to now apply to consensual acts under chapter 109A that involve attempts to travel with intent to commit an illegal sexual act.

Now, one question raised by the bill is, when is the attempt to travel completed? Have you made an attempt when you call your travel agent? When you buy a ticket? When you call a cab? When you get in the cab? Or start to drive to the airport? What happens if you change your mind? Have you completed the attempt?

I think the bill is overly broad, and I'll offer an amendment aimed at narrowing it to avoid covering teenagers. The law is already overly broad in this area, and we shouldn't broaden it further to include teenagers who agree across State lines to engage in heavy petting under the law.

I yield back.

Chairman SENSENBRENNER. The gentlewoman from California?

Ms. LOFGREN. I'd move to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. LOFGREN. I am mindful of the issue raised by my colleague Mr. Scott, but I really do believe that the measure—and I will certainly look at his amendment—is crafted in a way that the object of the prosecution will be these rings that have sprung up around the country and certainly in California, where there are businesses whose sole purpose is to provide and accommodate pedophiles who are traveling. And in California, it seems to be mainly the travel is to Asia, where the children are preyed upon for money.

And it is not a small issue. It is a very large issue, and it is well-known. Certainly in California, there have been a number of prosecutions recently in California that have been made very difficult. But I have even had Members of the House who have been on foreign travel tell me that they have observed American men preying on small children in some of the Asian countries that Members have visited on odels. And this has raised concern among some of our colleagues.

So I think it is very important that we pass a bill that attempts to shut this industry down, and I think that we ought to show a great deal of concern for the innocent victims, these children, not just American children but children throughout the world who are being preyed upon by American pedophiles.

So having said that, I will certainly look at any amendment that refines the bill. But I just wanted to thank the Chairman of the Committee for bringing this forward, because I think it is a serious issue that deserves our serious attention.

And I yield back the balance of my time.

Chairman SENSENBRENNER. The question is on the technical amendment offered by the gentleman from Texas, Mr. Smith.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Are there further amendments?

The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. I have an amendment at the desk, Mr. Chairman.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 4477, offered by Mr. Scott. On page 3, line 7, after the second period, insert “with respect to section 2243(a) of chapter 109A, this act only applies if the offending adult is age 21 or older.”

[The amendment follows:]

AMENDMENT TO H.R. 4477

OFFERED BY MR. SCOTT

On page 3, line 7, after the second period, insert: “With respect to Section 2243(a) of Chapter 109A, this Act only applies if the offending adult is age 21 or older”.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman.

This amendment would require that violations under 2243(a) involve an adult of at least 21 years of age to avoid the prospect of prosecuting the older of two teenage lovers if they even talk about or attempt to travel across State lines or foreign boundaries with the intent to engage in consensual sexual activity, including what is referred to as heavy petting, because the provision covers touching through the definition of sexual act.

It is already a Federal felony with up to 15 years imprisonment for a 15-year-old high school student to do these kinds of things with a 19-year-old boyfriend or girlfriend. Now we're going after them internationally. We don't need to do that in order to get at what we're talking about in the bill. We're covering commercial sex transactions. There's no need for us to go after consensual activities between teenagers that have nothing to do with the title and direction of the bill.

I'd also point out, Mr. Chairman, that this involves conspiracy, so if they've talked about it and agree to do it, and ancillary offenses—whoever arranges, induces, procures, or facilitates the travel. I guess if the taxicab driver finds out that the people talking in the backseat are going to do these kinds of things, that the taxicab driver could get implicated.

I would hope that we would limit this and not make this the Hormone Protection Act or something, where we're going after teenagers, and make it apply only actual adults who are engaging in these activities.

I yield back.

Chairman SENSENBRENNER. I recognize myself in opposition to the amendment.

This amendment actually goes backward under the current law. The current law, which is 18 U.S.C., section 2243(a), provides that whoever knowingly engages in a sexual act with another person who is 12 to 15 years old and is at least 4 years older than the victim shall be fined or imprisoned not more than 15 years or both.

What the Scott amendment does is that it amends this section of the statute to say that if you're under 21, you can't be prosecuted, period. So that means a 20-year-old that engages in a sexual act with a 12-year-old gets off the hook.

Now, I think that's exploitative. You know, that's not the way hormones work. And I've got two teenage boys getting out of the nest, and they tell me that isn't the way it works either. None of their contemporaries are interested in people who are 12 years old.

So I think the purpose of this bill is to try to get at people who cross an international boundary to do this. And to say that, if we defeat this bill, you can cross an international boundary and be able to do what you can't do if you cross a State line I think is ridiculous.

So I think we ought to defeat the amendment. We ought to keep 2243(a) the way it is.

And I yield back the balance of my time.

The question is on the amendment offered by the gentleman from Virginia, Mr. Scott.

Those in favor will say aye.

Opposed, no.

The noes appear to have it. The noes have it.

Are there further amendments?

If not, the—a reporting quorum is not present.

Without objection, the previous question is ordered, and further proceedings will be postponed.

[Intervening business.]

The unfinished business is the motion to report favorably the bill H.R. 4477, upon which the previous question had been ordered. H.R. 4477 is the “Sex Tourism Prohibition Improvement Act of 2002.” The Chair notes the presence of a reporting quorum.

Those in favor of reporting the bill favorably will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the motion to report the bill favorably is agreed to.

Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute, incorporating the amendments adopted here today. Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes. And all Members will be given 2 days, as provided by House rules, in which to submit additional, dissenting, supplemental, or minority views.

DISSENTING VIEWS

I/We dissent from the portion of this bill that would make it a felony, with up to 15 years in prison, for the older of two teenage high school lovers to attempt, or even talk about, traveling across state or foreign boundaries to engage in *consensual* sexual activity, including what is referred to as heavy petting, since the provision covers even touching through the definition of "sexual act." It is already a serious felony with up to 15 years in prison for such teenagers to engage in these consensual activities in the U.S., and now we would make it just as serious a felony to even *attempt* to travel from Virginia to D.C. with intent to engage in consensual sexual activity, or to even to talk about it. Certainly there are individuals and situations covered by the bill with which we can all agree, such as sexual predators who prey upon children, but we do not have to put wayward teenagers in this group as this bill does. During Committee markup of the bill, an amendment was offered by Rep. Scott to eliminate consensual sexual activities by teens, but it was rejected.

Since the bill covers foreign travel by U.S. citizens and resident aliens traveling from the U.S., we are dictating to the world our notions of serious felony crimes, regardless of the cultural norms of other countries. Just as the average age of marriage in this country was 15 for a female and 21 for a male until about 50 years ago, other countries have much younger averages now than does the US and provide for consensual relationships to begin between young people much earlier.

Since the bill covers commercial sex transactions, regardless of age or consent of the participants, and since States as well as all civilized foreign countries have laws against the underlying activities the bill is aimed, there is no demonstrated need to add more Federal criminal laws to go after consensual activities which have nothing to do with the title and focus of the bill.

JERROLD NADLER.
ROBERT C. SCOTT.
MELVIN L. WATT.

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