

**Should Campaign-Finance Laws Apply to Blogs?  
Congress votes this week on a bill that would exempt blogs from regulation. Critics see a soft-money loophole**

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**WASHINGTON** – If you're one of the nation's 30 million-plus bloggers - or among the 75,000 joining their ranks every day - keep an eye on Thursday's House vote on the Online Freedom of Speech Act.

Unless the bill passes, you may need a lawyer, if you discuss politics online. If it passes, you may still need a lawyer, if you spend more than \$250 a year on your blog.

If all that seems confusing, you're not alone. Both critics and supporters of this bill, sponsored by Rep. Jeb Hensarling (R) of Texas, claim to want to protect bloggers and "small speakers" from onerous federal campaign regulation.

But the Hensarling bill could also open a huge loophole in a 2002 law limiting the influence of big money in politics by allowing unlimited spending by corporations, unions, and wealthy individuals for political ads on the Internet.

"The Hensarling bill is the first skirmish in what role the Internet will have in campaigns and governing," says Nicco Mele, webmaster to Howard Dean's 2004 presidential campaign.

The bill started as a simple fix. When the Federal Elections Commission (FEC) wrote rules for the Bipartisan Campaign Reform Act of 2002, it exempted communications made over the Internet. The FEC said that was Congress's intent. The bill's lead sponsors, Reps. Christopher Shays (R) of Connecticut and Martin Meehan (D) of Massachusetts disagreed. So did the US Court for the District of Columbia, which ruled in 2004 that the FEC's rule excluding Internet communications was at odds with the plain meaning of the statute.

Before the FEC sets new rules, in a vote expected Thursday, lawmakers want to weigh in again on what, exactly, they did intend.

Hensarling's bill would exempt Internet communications from regulation under federal campaign-finance laws. The second-term lawmaker and rising GOP star calls the Internet "the new town square." "No American should have to hire an attorney just to express their views online," he says.

The bill first came up for a vote on Nov. 2, 2005, but fell 47 votes short of the two-thirds required to pass bills under suspension of the rules, a legislative procedure reserved for bills considered noncontroversial

In fact, it was controversial. Thirty-eight Republicans and 143 Democrats voted against the bill, including campaign-finance reform sponsors Representatives Shays and Meehan. Senate majority leader Bill Frist has offered the same measure as an amendment to a lobby reform bill now pending in the Senate.

What drives critics is concern that a blanket Internet exemption could allow corrupting soft money back into federal election campaigns. They are supporting an alternative bill by Reps. Tom Allen (D) of Maine and Charles Bass (R) of New Hampshire that exempts the vast majority of bloggers from campaign-finance laws, but clearly bans soft-money Internet ads.

It's a fight that has generated odd alliances. The Hensarling bill has the support of interest groups from the American Civil Liberties Union to the American Conservative Union, and big bloggers such as Michael Krempasky's redstate.com on the right and Markos Moulitsas Zúniga's dailykos.com on the left.

They're up against a coalition of public-interest groups that backs campaign-finance reform, including the Campaign Legal Center, Common Cause, Democracy 21, the League of Women Voters, Public Citizen and US PIRG.

"The Hensarling bill would undo part of the campaign-finance law and allow state parties to raise and spend soft money on federal elections, provided they were spending it on the Internet," says Trevor Potter, president of The Campaign Legal Center. "That is precisely what we don't want to have happen: to reintroduce soft money into federal elections through state parties."

He and other campaign-finance reform advocates are backing the Bass/Allen alternative, because they say it protects bloggers from the full range of regulations, including those not covered by today's new FEC rule.

"The Bass/Allen bill tries to exempt 99 percent of citizens out there from any Internet regulation," says John Morris, staff counsel to the Center for Democracy and Technology, which helped draft the bill.

In a guest column for Roll Call newspaper this week, FEC chairman Michael Toner reaffirmed his claim that Congress never intended to regulate the Internet - and backed the Hensarling bill.

"The Internet is not only a unique medium that defies the legal premises for regulating political speech, it also is a democratizing influence on American politics," he wrote. "It is a leveling force that has allowed millions of people across the political spectrum ... to organize and voice their support for the candidates of their choice at virtually no cost."