



STOP COMSTOCK ACT

Comstock Act Repeal

The Comstock laws are a set of 1800s laws to ban the mailing or shipping of every obscene, lewd, indecent, article, matter, thing or device, with the goal of restricting abortion, contraceptives, and even love letters. A future administration hostile to sexual and reproductive health care will willfully misapply these unconstitutionally vague laws to impose a ban on abortion nationwide, even without any Congressional action. Senator Smith is introducing the [Stop Comstock Act \(SCA\)](#) to stop them.

Republican strategists have seized on the idea that the Comstock Act could be misused to ban the mailing of mifepristone and other drugs used in medication abortions, instruments and equipment used in abortions, and educational material related to sex, and even art. They've made their plan clear:

- **Project 2025:** The federal government "should also enforce existing federal law that prohibits mailing abortifacients..."
- **Jonathan Mitchell**, architect of Texas's SB8 vigilante law: "'From my standpoint, I want to get Comstock to the Supreme Court as quickly as possible,'" and "'We don't need a federal ban when we have Comstock on the books.'" He has also said that he wants abortion opponents to stay quiet about their ideas because they know how unpopular their agenda is.
- **Justice Alito** at oral arguments in *Alliance for Hippocratic Medicine v. FDA*: "This is a prominent provision. It's not some obscure subsection of a complicated, obscure law...Everybody in this field knew about it."

While the Supreme Court did not mention the Comstock Act in their opinion in *Alliance for Hippocratic Medicine (AHM)*, they did not close the door to future challenges to limit access to medication abortion. Those future cases could still feature Comstock-based claims; during oral arguments on the *AHM* case Comstock was raised by both Justices Alito and Thomas. And an administration hostile to abortion could try to prosecute abortion providers – even in states where abortion is legal.

Anti-abortion extremists won't be deterred by the fact that no court has held that Comstock applies to legal abortion in over 100 years. They won't be deterred by the fact that the Department of Justice's Office of Legal Counsel has definitively rejected their bogus reading of the law. And they won't be deterred by the fact that relying on a statute to restrict access to reproductive health care enacted before women had the right to vote is democratically illegitimate.

That's why we need to work to repeal the Comstock Act, to take this spurious and intentionally manipulative argument off the table entirely. Senator Smith's [Stop Comstock Act \(SCA\)](#) will fight back against the efforts from anti-abortion extremists to misuse the Comstock laws.

Anti-abortion extremists have laid out their plan to subvert the will of the voters by relying on an incorrect, disingenuous argument about this antiquated statute to enact their deeply unpopular policy agenda. The fight to restore and expand reproductive rights must be fought on all fronts and Senator Smith takes seriously the threats to misapply these old laws.