

Pornography labeling bill sponsored by Highland representative passes through Utah Senate committee

By Connor Richards Daily Herald

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A bill that would impose civil penalties on pornography distributors who fail to put a warning label on obscene material passed through the Utah Senate Judiciary, Law Enforcement and Criminal Justice Committee 4-1 on Tuesday.

[House Bill 243](#), which is sponsored by Rep. Brady Brammer, R-Highland, would mandate that all pornography distributed in the state of Utah include a “visible warning” about the harms pornography can have on children.

The original bill would have required that pornography be labeled with a warning stating “exposing minors to pornography is known to the state of Utah to cause negative impacts to brain development, emotional development, and the ability to maintain intimate relationships” and that this “exposure may lead to harmful and addictive sexual behavior, low self-esteem, and the improper objectification of and sexual violence towards others, among numerous other harms.”

A second substitute of the bill was introduced on Tuesday, which changed the warning to state that “Exposing minors to obscene material may damage or negatively impact minors.” The substitute also changed the phrase “pornographic material” to “obscene material.”

The reason for the change is that “obscenity is a higher legal standard and does not enjoy constitutional protections,” said Brammer.

Brammer said legal counsel has said that a narrowly tailored warning requirement like this would not violate the Constitution with respect to free speech.

Pornography publishers that didn’t display the warning on print publications or for at least 15 seconds before digital material could be sued for up to \$2,500 per violation, according to the bill.

Sen. Derek Kitchen, D-Salt Lake City, asked what besides a \$2,5000 fine would happen to someone who violates the law. Brammer said it would be a civil violation and there would be no criminal penalty.

Brammer acknowledged the difficulty of defining obscenity.

“It has been a difficult line to draw,” Brammer said.

Sen. Kirk Cullimore, R-Draper, said he was concerned that attorneys could abuse the law and use it as a “settlement machine.”

“I just foresee that this would be ripe for abuse,” Cullimore said.

Maryann Christensen, executive director of Utah Eagle Forum, spoke in favor of the bill and said it would help protect children.

Marina Lowe, legislative and policy counsel for the American Civil Liberties Union of Utah, said she appreciated that the bill had “significantly narrowed” from its original version, adding that the original bill raised “very clear” First Amendment concerns.

Still, she said the committee should look at the bill carefully before voting for it since even definitions of obscenity are subjective and open to wide interpretation.

Hannah Christian, a representative with the Salt Lake City chapter of the Sex Workers Outreach Project, spoke in opposition to the bill and said it would dehumanize sex workers.

An earlier version of H.B. 243 passed through the House of Representatives last Tuesday on a 60-12 vote.

Earlier this month, Brammer told the Daily Herald the bill follows a nonbinding resolution the Utah Legislature passed in 2016 declaring pornography a “public health hazard leading to a broad spectrum of individual and public health impacts and societal harms.”

Brammer said minors being exposed to pornography is “continuing to be a problem” in the state and that he believes this bill will prevent such unwanted exposure.

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