

Mlex Insight: Utah legislature approves social media content moderation bill

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Utah legislators last night approved a bill empowering the state attorney general to sue social media companies over their content moderation decisions.

Republican Governor Spencer Cox now faces a 20-day deadline for signing or vetoing the bill, which the tech industry opposes (see [here](#)).

Opponents told MLex they're hopeful Cox will act against the bill, citing a close vote in the House that included substantial Republican opposition, meaning the statehouse likely couldn't override a veto.

House legislators earlier yesterday amended a Senate version by delaying the bill's effective date to July 2022 (see [here](#)). Supporters say the delay would allow for modifications to be made during the next lawmaking session. Utah's annual 45-day legislative session ends tonight at midnight.

The amended bill, which the Senate sent to the governor after a 22-7 vote, introduces a new requirement for social media platforms to notify the state attorney general within 24 hours after restricting content containing an imminent threat of violence or depicting child sexual abuse. It removes a requirement directing social media companies to engage an independent board with power to review content moderation decisions.

It preserves language allowing the state consumer protection agency to investigate residents' complaints that a social media company inconsistently applied its terms of service in a decision to suppress, remove, or flag online content. The attorney general could act on those complaints by initiating civil actions against social media companies with penalties of \$1,000 per affected consumer.

The sponsor of the House bill, Republican Representative Brady Brammer, told his colleagues the legislation is necessary given social media's conversion to the modern equivalent of a public square. "Once it starts to feel like they're picking and choosing which messages are published on the platform and which aren't, and they over-moderate, then it starts to feel like, you know, you're not really a platform anymore," he said.

Legislators who voted against the bill said it infringes on property rights. "Do public free speech requirements apply to your private property?" asked Republican Representative Ryan Wilcox. "A government shouldn't have the right to take that property right from us, either in the physical or the digital space."

House Democratic leader Brian King warned that the bill, if signed, would provoke costly court challenges. An analysis by the Utah Office of Legislative Research and General Counsel found the bill

raises three constitutional concerns: that it violates the dormant Commerce Clause and the First Amendment, and that it conflicts with Section 230 of the Communications Decency Act of 1996 (see [here](#)).

The Internet Association, a tech industry alliance, issued a statement today urging Cox to veto the measure, writing that if Utah becomes the first state to make content moderation an enforceable offense under state law, it will end up “seriously threatening Utah’s status as a premier technology hub.”

A recent analysis by the University of Utah’s Kem C. Gardner Policy Institute found that the tech industry directly and indirectly supports one out of seven jobs in Utah.

A Cox spokeswoman said the governor has given no indication yet on how he’ll act.