

## Utah is about to pass a law making iPhones filter porn — but only if other states pass one, too

Apple probably shouldn't worry too much yet

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<https://www.theverge.com/2021/3/21/22335928/utah-phone-tablet-anti-porn-filter-law-passes-first-amendment>

In the next week, Utah's governor will decide whether to make all phones and tablets in the state filter pornography... sort of. The bill, which passed Utah's legislature earlier this month, would require mobile devices to "automatically enable a filter capable of blocking material that is harmful to minors." Gov. Spencer Cox has said he will "carefully consider" signing it by the March 25th deadline. But the rule won't change anything in the immediate future — a fact one lawmaker even cited as a benefit.

In theory, Utah's H.B. 72 mandates active adult content filters on all smartphones and tablets sold in Utah. Phone makers would provide a passcode to let buyers disable the filter, although it's not clear if they'd need to verify the buyer's age beforehand. If a filter isn't automatically enabled when a user activates the device, its manufacturer can be held legally liable if a minor accesses harmful content, with a maximum fine of \$10 per individual violation. ("Harmful" content can include "any description or representation" of nudity or sexual conduct that doesn't have artistic, political, or scientific value for minors.)

THE LAW WOULD BASICALLY MAKE MANUFACTURERS AUTO-ENABLE CHILD PROTECTION TOOLS  
Apple and Google both offer parental controls on iOS and Android devices, but they're turned off by default. Bill supporters like the anti-pornography group National Center on Sexual Exploitation argue that the filters are too complicated to activate, "leaving most parents helpless to protect their kids online." So the law is basically aimed at making companies automatically enable them and add barriers to turning them off.

If this bill is signed, though, it could run into immediate constitutional challenges. The ACLU of Utah, which opposed the rule, tweeted that it "infringes upon the general public's First Amendment rights to freely access the internet." The Supreme Court famously struck down the Communications Decency Act, which banned making indecent materials available to minors, in 1997. Child protection filters can easily catch innocuous materials, and requiring devices block large swathes of content may not fly in court, even if those filters can be turned off.

Moreover, the rule includes a huge loophole: it doesn't take effect until five other states pass equivalent laws. If none pass before 2031, the law will automatically sunset. And so far, Utah is the only place that's even got one on the table. "We don't know of any other states who are working on any plans right now," says Electronic Frontier Foundation media relations director Rebecca Jeschke.

LAWMAKERS MAY CARE MORE ABOUT A "STRONG MESSAGE" THAN PRACTICAL EFFECTS

The bill is arguably being passed more as a political statement than a serious or immediate change. State Senator Todd Weiler approvingly noted that the five-state rule "gives us years, most likely, to iron out all of the problems, if there are problems," and in the meantime, "it does send a strong message." A colleague, Sen. Jake Anderegg, said the bill posed fatal logistical problems — although he voted for it anyway, saying he didn't "want to be the guy" who stood in the way of a child protection bill.

That said, as Jeschke points out, it's hardly the first proposal of its kind. In 2017, more than a dozen state legislatures considered the "Human Trafficking Prevention Act," which would have required device manufacturers to preinstall "obscenity" filters and then force buyers to pay \$20 to turn them off. That bill was defeated in some legislatures, and it was withdrawn in others after controversy over its architect — an anti-gay activist who tried to marry his computer as a publicity stunt. The Salt Lake Tribune reports that H.B. 72 sponsor Rep. Susan Pulsipher "talked" to the man behind that bill, but she said other people had been involved with her legislation as well.

As Mel magazine points out, the law is linked with a larger playbook for cracking down on sex work. Utah passed a resolution in 2016 declaring pornography a "public health hazard," and last year, it passed a law requiring sites like Pornhub to add warning labels inside the state. In total, over a dozen states have passed language declaring a porn health crisis. So it's possible other lawmakers will try to follow Utah's lead — but it's just as possible the law will fade away without ever taking effect.