

Cox vetoes effort to address perceived social media censorship — and it's a family matter now

By [Art Raymond@DNTechHive](#)

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SALT LAKE CITY — Utah Gov. Spencer Cox put the brakes on an effort by state lawmakers to abate perceived censorship practices by social media companies, citing technical issues, though the proposal was widely thought to be in conflict with federal protections under the U.S. Constitution.

And in a decidedly Utah-style twist, it's not only Cox's first veto, he's also related to the bill's sponsor.

The primary sponsor of [SB228](#), Sen. Michael McKell, R-Spanish Fork, said during the session that his proposal would help hold operators of social media platforms responsible, and legally liable, for unfairly applying moderation rules stipulated in their terms of use agreements. These are the contracts that, though rarely read, are required of all users of free social media platforms like Twitter, Facebook, TikTok, YouTube, Instagram and others.

The bill was chewing at the edges of issues that have riled some federal lawmakers, [including Utah Republican Sen. Mike Lee](#), that include allegations that social media companies are in the habit of unfairly suppressing or censoring conservative political content.

But on Tuesday afternoon, Cox announced he had decided, after speaking with McKell and legislative leaders, that a veto was “the best path forward due to technical issues.”

“The sponsors of this bill have raised valid questions about the impact social media platforms can have on public discourse and debate,” Cox said in a statement. “Our country continues to grapple with very real and novel issues around freedom of speech, the rights of private companies and the toxic divisiveness caused by these new forms of connection, information and communication.

“While I have serious concerns about the bill, I appreciate the willingness of the bill's sponsors to continue to seek a better solution. Utah must be a leader in this space, and I look forward to engaging with legislators and social media companies to address these legitimate concerns.”

[Tech industry representatives and civil rights watchers were aligned in their concerns](#) that SB228's provisions would run afoul of constitutional protections, as well as contravention of Section 230 of the Communications Decency Act of 1996. That clause, which is widely credited with helping online companies prosper since its inception, also provides legal protection for platform operators against legal issues raised by content published by users under the stipulation that “no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”

One analogy compares the Section 230 protections to other rules that keep, for example, bookstore owners safe from legal liability if an author of a book they sold was found guilty of libel.

McKell said he's ready to make another legislative run on the same topics and plans to open a follow-up bill file in early May. He said the governor's veto was not the outcome he was hoping for but is ready to continue work to refine the idea.

"I appreciate the commitment from stakeholders who have agreed to work with the Legislature to craft a better solution that will increase transparency within social media corporations," McKell said in a statement. "Censorship practices are un-American and likely unconstitutional. In Utah, we defend the right to freely express opinions and views, regardless of political or religious affiliation.

"The outcome of SB228 is not ideal; however, the issue of free speech and online censorship remains a priority and policy will continue to be refined throughout interim."

The bill had a single public hearing in a February Senate committee before getting a supporting vote from that body but moved through the House under a late-session suspension of rules scenario. The House narrowly approved SB228 on a 39-35 vote.

At the bill's sole hearing, McKell recognized the issue of addressing rules for internet content moderation is of national concern and would be best addressed at the federal level but said he was told by Utah Republican Rep. Chris Stewart that while members of both parties share concerns and are talking about the problem, Congress "won't actually fix it."

Jason Groth, an attorney with the American Civil Liberties Union of Utah, voiced his agreement with McKell at that hearing and said that the best course of redress would be through federal rules or legislation changes but said the Utah action wasn't the right approach to addressing concerns.

"This bill is almost certainly unconstitutional," Groth told Senate committee members in February. "The ACLU has long discouraged big platforms from censoring on the basis of viewpoint. But, it's an entirely different matter for the government to dictate what online platforms must publish.

"It's never a good idea for government to require speech. Constitutionality aside, this bill is a waste of time because it's preempted by Section 230 of the Communications Decency Act."

Utah libertarian think tank Libertas Institute weighed in on the Tuesday veto decision as well.

"We appreciate the willingness of policymakers to hit pause on this bill and try to achieve consensus with stakeholders while addressing the Legislature's concerns," said Libertas President Connor Boyack. "We look forward to the dialogue in the months ahead."

The proposal would have designated Utah's state consumer protection division and the attorney general's office as arbiters and enforcers of the new rules, which could also carry fines up to \$1,000 per violation. Social media companies would also be obliged under the bill's provisions to create expansive and specific lists of "banned" content in those user agreements; be required to provide explanations, within a 24-hour window, whenever a comment, video or other content posting is removed, blocked or hidden; and create an appeals process for users who want to contest moderation decisions.