

ACLU: Senate Social Media Bill May Harm Privacy, Drug Advocacy

U.S. Senate Passes Bill to Restrict Social Media Content for Minors

Legislation passed last week by the U.S. Senate would set several restrictions on social media activity to protect the well-being of children. However, the proposal—which prohibits social media companies from showing minors content that promotes alcohol, tobacco, drugs, or gambling—raises free speech and privacy concerns, potentially stifling online drug policy reform activism, advocates warn.

Overwhelming Vote and Key Provisions

The Senate passed S. 2073, the Kids Online Safety and Privacy Act (KOSA), with a 91–3 vote. If enacted, the bill would make social media platforms responsible for ensuring that advertisements, marketing, or promotions of drugs, alcohol, tobacco, or gambling do not reach minors under the age of 17. This legislation aims to safeguard children from potentially harmful content but has sparked significant debate regarding its broader implications.

Potential for Overreach and Censorship

Despite the Senate’s strong support, civil liberties advocates have expressed serious concerns about the bill’s potential to overly restrict speech and limit access to educational information. Jenna Leventoff, ACLU’s senior policy council and director of the civil rights group’s national political advocacy division, argues that KOSA could violate the First Amendment by enabling the federal government to dictate online content and encourage social media platforms to censor protected speech.

Implications for Drug Policy Reform

Leventoff noted that while the bill specifically targets narcotic drugs, tobacco products, gambling, and alcohol, it does not explicitly mention marijuana or psychedelics. However, she cautions that platforms may still censor content related to these substances to avoid potential liabilities. “Platforms are risk-averse and likely to censor any content that could cause harm to minors, including anxiety, depression, or substance use disorders,” she explained.

Challenges with Content Moderation

Leventoff highlighted the vagueness of the bill and the imperfections of current content moderation tools, which could lead to unintended censorship of educational and advocacy content. “Content moderation tools are not particularly good at distinguishing between harmful promotions and legitimate educational information,” she said. This could result in the removal of valuable resources on drug education, harm reduction, and legalization advocacy.

Privacy Concerns and Age Verification

Another significant concern is the potential increase in age-gating by social media platforms, which might require users to provide government IDs or other proof of age. This could compromise user privacy and deter individuals from seeking important information. Leventoff cited the example of medical patients who might avoid looking up marijuana-related content due to privacy concerns.

State-Level Precedents and Judicial Scrutiny

The concerns raised by KOSA are not new. Similar bills at the state level have often been deemed unconstitutional by courts. Leventoff pointed out that in most cases, laws restricting online content for minors have failed to withstand judicial scrutiny. “It’s extremely likely that KOSA is unconstitutional,” she said, questioning why Congress would pursue legislation unlikely to hold up in court.

Impact on Cannabis and Psychedelics Content

Shoshana Weismann, a fellow at the R Street Institute, echoed concerns about the bill’s potential impact on content related to marijuana and psychedelics. She noted that platforms might suppress a wide range of content, including news about wars or climate change, to avoid liability. This could lead to censorship of even research and educational content about marijuana, further complicating the online information landscape.

State-Level Cannabis Advertising Regulations

At the state level, jurisdictions with legalized cannabis typically have regulations to prevent advertising to minors. However, these do not usually hold social media companies responsible for policing content. A recent study in the *Journal of the American Medical Association (JAMA) Pediatrics* found that states with legalized cannabis saw lower youth usage rates compared to states where marijuana remains illegal, suggesting that legalization and regulation do not necessarily lead to increased youth use.

The Kids Online Safety and Privacy Act aims to protect minors from harmful online content but raises significant free speech and privacy concerns. While the legislation targets specific substances, its vagueness and potential for overreach could lead to widespread censorship and privacy issues. As the debate continues, it remains crucial to balance protecting children with preserving fundamental rights and access to important information.

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