



March 11, 2024

Re: Woodhull Freedom Foundation Opposes HB 254

Dear Members of the Labor and Commerce Committee,

We are writing from the Woodhull Freedom Foundation to express serious concerns regarding HB 254. While we agree entirely with the goal of keeping children from material that is age-inappropriate or harmful, similar bills introduced in Texas, Louisiana, Utah, and other states have raised significant privacy risks for consumers and violate their First Amendment protections and human right to free expression.

The Woodhull Freedom Foundation, founded in 2003, is a national human rights organization working to protect our fundamental human rights through advocacy, education, and research.

As you may be aware, several states have passed similar bills. Unfortunately, these bills are not only unconstitutional and a danger to consumer privacy, but they are also ineffective at preventing minors from accessing adult content. They are easily evaded through the use of VPNs (as more than 40% of minors already use the technology), have little impact on overseas and pirate sites, and fail to address adult content on search engines or social media where children are most likely to stumble upon it. In fact, these bills encourage the growth of explicit sexual content on non-adult sites.

Compliance with HB 254 also requires users to transmit extremely sensitive data – such as digitized copies of their government-issued identification, biometric scans, or other forms of data used by commercial age verification software providers – over the internet. The mere collection of this information opens citizens to the risk of data breaches. Even good actors and governments struggle to secure this type of data, as we've seen countless times in recent years. Just months after Louisiana's bill was enacted, the Office of Motor Vehicles suffered a cyberattack and data breach.

Due to the lack of comprehensive digital privacy protections in the US, HB 254, if passed, would violate Article 12 of the Universal Declaration of Human Rights (UDHR), which states, "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence..." The human rights of Arizonans cannot be traded in for supposed safety online, particularly as our lives become increasingly digital.

Finally, sexually explicit content is First Amendment-protected speech, and the Supreme Court has ruled repeatedly that restrictions on its production and consumption face the highest legal bar: strict scrutiny.

In *Reno v. ACLU* (1997), the Court struck down the statutory provisions of the Communications Decency Act (CDA) requiring use of age verification software as an unconstitutional content-based blanket restriction on speech, saying, "[i]n order to deny minors access to potentially harmful speech, the CDA effectively suppresses a large amount of speech that adults have a constitutional right to receive and address to one another."



The solution is simple. Parental controls and device-level filters are effective tools if parents and schools are willing to use them. This technology not only puts power where it should be – in the hands of parents and caregivers – but it is also widely available, fully supported by industry, and endorsed by the Supreme Court.

Bills severely impacting our First Amendment rights deserve serious consideration and debate. We ask that you oppose HB 254 and direct the legislature to work with technology companies, privacy experts, and affected communities to find an effective solution.

Sincerely,

A handwritten signature in black ink that reads "Ricci Joy Levy". The signature is written in a cursive, flowing style.

Ricci Joy Levy
President & CEO
Woodhull Freedom Foundation