

Kids Online Safety Act

S.3663 (Sens. Blumenthal & Blackburn)

The Kids Online Safety Act (KOSA) is a well-intentioned bill that attempts to address a serious issue – the exposure of children to harmful material online. Unfortunately, the approach it takes will dangerously threaten our First Amendment right to free expression. The bill creates significant civil liability –up to \$50K per violation – for platforms that fail to prevent minors from accessing “harmful” content.

KOSA Would:

- **Apply to everything on the Internet.** Any commercial software application or electronic service that is used, or is reasonably likely to be used, by a minor is liable under the law. This definition is so broad that it would affect nearly every website, app, and Internet-enabled device in existence.
- **Apply to everyone on the Internet.** The vast majority of websites do not have a way to determine the age of their visitors. KOSA provides no clarity as to how it would be accomplished or how privacy would be safeguarded
- **Chill disfavored speech.** The bill fails to define what content “pose[s] a risk to physical and mental health of a minor.” State Attorneys General would have complete latitude to bankrupt websites that host content they disapprove of through exorbitantly costly litigation and civil penalties. Those potential consequences would undoubtedly result in the censorship of vast amounts of content.
- **Violate the First Amendment.** In the name of protecting children, KOSA severely limits adults’ access to information and content relevant to them. The Supreme Court was clear in *Reno v. ACLU* (1997): laws that suppress speech in the name of protecting children violate the First Amendment when there are less-restrictive means of accomplishing the same goal.

What Congress Should Do

Respect the First Amendment as well as the fundamental right of parents to determine what content their child is exposed to through the use of readily-available parental control software.

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