

February 5, 2025

House Judiciary Committee
New Hampshire House of Representatives, LOB 206-208
107 North Main Street
Concord, NH 03301

Dear Chair Lynn, Vice Chair Mannion, and Members of the Committee:

On behalf of the millions of taxpayers and consumers we represent – including many in the state of New Hampshire – the Taxpayers Protection Alliance (TPA) writes to oppose House Bill HB293. This legislation would require any handheld device activated in the state of New Hampshire to have a preconfigured filter that would block access to content presumed to be obscene during the activation of the device by a minor.

Many “device filter” bills like HB293 are well-intentioned, but are riddled with constitutional issues. While seeking to protect children online is a noble goal, device filter mandates are unconstitutional. They also automatically block protected speech and are technically impractical to implement for industry actors.

By requiring content filters to be automatically enabled on handheld devices, these filters would act as blockers of constitutionally protected expression. The First Amendment is silent on how offensive or objectionable the content may be. Most of the Communications Decency Act of 1996 was struck down in *Reno v. ACLU* because of how restrictive the Act was compared to alternatives to achieve its intended purpose. As Justice John Paul Stevens wrote in his opinion, “It is true that we have repeatedly recognized the governmental interest in protecting children from harmful materials. But that interest does not justify an unnecessarily broad suppression of speech addressed to adults.”¹ Device filter bills do exactly that.

Similar age restrictions to protected speech have also been struck down in court. *Brown v. Entertainment Merchants Association* determined that banning violent video games for minors was unconstitutional.² Banning minors from accessing content on their handheld devices will likely come under similar scrutiny and be challenged in the Courts.

There are already industry solutions when it comes to parental controls and filtering obscene online content. As TPA has stated previously in our conceptual analysis of device filters mandates, “There is no argument against devices and services having parental controls. Virtually every device manufacturer, online platform, and internet service provider (ISP) have them as options and provide them free of state coercion... Turning these features on by default through the force of law, however, is inherently a restriction on otherwise legally protected speech.”³

Device filter bills are undoubtedly well-meaning. However, they are broadly unconstitutional and would get states involved in frivolous lawsuits that cost taxpayers money. It would be in the best interests of taxpayers and consumers in New Hampshire for this committee to reject HB293 and any bills like it.

Sincerely,



David Williams
President

¹ *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997).

² *Brown v. Entertainment Merchants Association*, 564 U.S. 844 (2011).

³ <https://www.protectingtaxpayers.org/internet/device-filter-bills-reveal-inconsistency-on-outsourced-censorship/>