

Colorado SB 25-201 Fails to Protect Children & Will Harm LGBTQ Businesses and People

CLEAR's Comments to the CO Senate Health & Human Services Committee

Thank you. My name is Spencer Watson. I use they/them pronouns, and I am the Executive Director of CLEAR, the Center for LGBTQ Economic Advancement & Research.¹ We are a nonprofit, nonpartisan organization that seeks to improve financial and economic equality and outcomes for LGBTQ+ people, organizations, and communities.

As someone born in Thornton, raised in Pueblo, and who graduated CU: Boulder, it is a pleasure to address this committee today. I am saddened that it had to be for this reason.

Although protecting the wellbeing of minors is admirable, SB 25-201 does not effectively accomplish that goal. Instead, it uses child welfare as a pretext to accomplish what other means of censorship otherwise could not: put adult content producers out of business.

The requirements of this bill for businesses and websites are staggering in their scope. Its implementation alone is too costly for many to comply with it, meaning they will simply cease doing any operations in the state of Colorado, or may cease operating altogether. This will absolutely disproportionately harm the businesses and content creators in LGBTQ community, who are for a variety of reasons more active in adult content creation spaces and in sex work altogether.

In one 2014 Urban Institute study of sex workers in Atlanta, Dallas, Denver, Seattle, and Washington D.C. found that 33% of sex workers were Black, 17% were White, 11% were Latinx, and 8% were multiracial. Most identified as women (97%)—including 19% who identified as trans women.² And, in a National Center for Transgender Equality survey of the transgender community, one in ten (11%) transgender people reported having performed sex work for income.³ These are the people you will be harming disproportionately. Not shady pimps or human traffickers, just everyday folks trying to get by.

Moreover, the ambiguity of what type of material might be included in the definition of a covered platform is shocking. I read from the proposed bill text:

¹ CENTER FOR LGBTQ ECONOMIC ADVANCEMENT & RESEARCH, www.lgbtq-economics.org

² Meredith Dank et al, Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities, Urban Institute 219 (March 12, 2014) <https://www.urban.org/research/publication/estimating-size-and-structure-underground-commercial-sex-economy-eight-major-us-cities>.

³ Jaime M. Grant et al, Injustice at Every Turn: A report of the National Transgender Discrimination Survey, Nat'l Ctr. for Transgender Equal. 22 (2011) https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf.

"[A] '[c]overed platform' means an entity. (A) that is a website; and (B) ... the entity creates, hosts, or makes available material that is harmful to children... with the objective of earning a profit."⁴

This stunningly vague definition could, conceivably be extended to include any information that the government or regulators find to be imprudent or improper for a child to see.

As I'm sure you can appreciate in this time when information about and access to gender affirming care is being vastly curtailed in Republican states under the pretext of protecting minors, I find myself stunned to be sitting before a Democratic legislature explaining that protecting minors is no reason to limit access to any information for any reason.

Am I seriously to believe that this could not be misused to harm LGBTQ communities, when we have suffered greatly to ensure that even magazines and publications about our lives can be sent via the USPS and not be deemed Comstock Act "lewd" material?⁵

And who is to determine whether a nude image is pornography or not? Pornography has been with humanity since we could create art. Many statues, paintings, and portraits considered great art have also been accused of being pornographic and harmful to minors. Are those to be restricted under this policy as well?

Spare me the pretextual moral panic about child welfare. It is not the role of politicians to explain pornography to children. It is a parent's job. I suggest you let parents parent and get back to more important business, like protecting your citizens from the vile attacks of this administration on your trans citizens.

Thank you for your time.

You may follow up with me at any time with any questions regarding my comments today or any other matters concerning improving the economic wellbeing of LGBTQ people, organizations, or communities at spencer@lgbtq-economics.org.

⁴ *Require Age Checks for Online Sexual Materials*, CO SB 25-201, 75th Gen. Assemb. § 2(b)(1)

⁵ German Lopez, *The homophobic history of the Post Office*, Vox (May 28, 2014)

<https://www.vox.com/2014/5/28/5756494/the-homophobic-history-of-the-post-office>.