

Lawmaker wants warning labels on pornography

Written by Bob Bernick, Contributing Editor

UtahPolicy.com

04 February 2020

<https://utahpolicy.com/index.php/features/today-at-utah-policy/22867-lawmaker-wants-warning-labels-on-pornography>

A Utah lawmaker has come up with a novel idea -- make all distributors of “pornography” put a warning label on it, and if they don’t then they may face legal “exposure,” (pun intended).

Rep. Brady Brammer, R-Highland, is an attorney, and he brought cases in California over that state’s “toxic” labeling law.

“It is much the same idea here,” Brammer told [UtahPolicy.com](#) Tuesday morning, only this time apply to it to adult sexual material, usually viewed over the internet.

Why would sites run out of businesses all over world, not just in the U.S., bother will little old Utah laws?

But that is exactly what has happened to the toxic warning labels required by California, he said.

Rather than risk lawsuits in that state, manufacturers who make materials with toxic substances, label all their products, not just those sold in California, said Brammer.

He says legislative attorneys “extensively” examined his bill, [HB243](#), for 1st Amendment and other free speech issues -- which historically in the U.S. have been the battleground for so-called “pornographic” material. And they didn’t give him a constitutional note.

However, Jason Stevenson, spokesman for the ACLU Utah, said there are real concerns on the new bill, after the civil liberties group won a court case over a 2005 bill that also tried to regulate, in some manner, the internet.

It’s important to note, said Brammer, that the fines which come with his bill (no criminal penalties) do not apply to a parent whose child may view the material, nor to web platforms, like Facebook or Comcast, where the material may be presented through -- only the original distributors of the material.

Some of these providers already warn minors not to view the material and require those seeking access to verify that they are adults.

But many don’t, and in any case, said Brammer, while the Legislature has attempted to keep minors from viewing “pornography,” those attempts have been suspect in their effectiveness. Several years ago, the Legislature passed a resolution saying that pornography is a major public health issue that needs more attention.

Leader of The Church of Jesus Christ of Latter-day Saints have warned their members, and others, of the danger of pornography and its possible addiction, as a threat the family and marriage.

And more than 80 percent of Utah lawmakers are Mormons.

Brammer’s bill says:

(1) A person may not distribute material the state considers harmful to minors as
44 defined in Section [76-10-1201](#) without first giving a clear and reasonable warning of the
45 harmful impact of exposing minors to the material. The warning of the harm shall be
46 prominently displayed....”

But what is “pornography?” In the bill it is the same definition in Utah law that applies to minors, or those under 18 years old.

Harmful to minors is material: “that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when:

- (i) *taken as a whole, appeals to the prurient interest in sex of minors;*
- (ii) *is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and*
- (iii) *taken as a whole, does not have serious value for minors.”*

The warning must read: STATE OF UTAH WARNING

48 *Exposing minors to pornography is known to the state of Utah to cause negative impacts to*
49 *brain development, emotional development, and the ability to maintain intimate relationships.*
50 *Such exposure may lead to harmful and addictive sexual behavior, low self-esteem, and the*
51 *improper objectification of and sexual violence towards others, among numerous other harms.*

The warning needs to be present on the opening of each such site, whether it is being viewed by an adult or a minor.

The violation brings a \$2,500 fine for each individual offense -- so if a site not displaying the warning is visited by 1,000 Utahns in a day, the fine could be \$2.5 million. Clearly, a significant penalty for such an operation.

Rather than risk such a fine, hopes Brammer, the distributor will just include the Utah warning on its homepage.

California’s toxic warning law has been upheld in many court cases, he said -- some of which he participated in as a lawyer.

Like the California law, Brammer’s bill says a citizen must first bring alleged offenses to the Utah Attorney General. If the AG doesn’t act, then the citizen himself can bring an action against the offending distributor in court.

If this bill passes, and it works as well as the California toxic warning law, then before too long, Brammer hopes, pornography sites not just in the U.S., but across the world, will be carrying Utah’s warning about how porn can harm the minds of minors.