

Legal Primer:

Free Speech Coalition v. Paxton



The case:

In 2023, Texas passed a law (H.B. 1181) requiring websites with adult content to display health warnings about pornography and to verify users' ages using their government-issued ID. The law's stated intent was to "protect" children from accessing "explicit" material online.

The legal challenge:

Free speech groups and the adult entertainment industry sued, arguing that the law violated free speech rights. A federal court agreed, and blocked the law. Texas then appealed the ruling to the Supreme Court.

The Supreme Court's decision:

The Supreme Court upheld the age-verification requirement, ruling that **states have a strong governmental interest in "protecting minors" from "sexually explicit material" through adequately tailored means** – meaning the State doesn't have to come up with the *least* restrictive possible law to achieve its ends, but it does have to tailor its efforts to try not to overly burden speech. A majority of the Justices agreed that age verification is a reasonable way to achieve the state's stated goal.

Immediate impact:

This decision gives states the green-light to require age verification on adult websites. The ruling sets a new, more forgiving, test for state laws that appear to burden constitutionally protected speech. The decision thus ushers in a **more permissive legal landscape for regulating online speech**. After this ruling, states have the go-ahead to collect individuals' identifying information via age verification when they attempt to access online content that the State considers "sexually explicit." Moreover, states hostile to sex education have more freedom to target organizations providing such education online, under the guise of "protecting minors" from "sexually explicit material."

Bottom line:

This ruling changed the standard by which judges in future cases will assess "child-protective" restrictions on otherwise publicly accessible "sexually explicit" content. We can expect that more states will pass laws requiring age verification on websites with adult content (some already have). Some states may go further, coming up with different attempts to "protect minors," **possibly by targeting online content that includes sex education and other information intended to benefit minors**. Other states may begin collecting users' identification before they access other online content that the State finds objectionable. Such experimentation will likely result in new lawsuits.

Questions? Contact us at sdavidson@educateusaction.org.

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