

Montana close to becoming 1st state to completely ban TikTok

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The icon for the video sharing TikTok app is seen on a smartphone, Feb. 28, 2023, in Marple Township, Pa. Montana lawmakers were expected to take a big step forward Thursday, April 13, 2023 on a bill to ban TikTok from operating in the state. It's a move that's bound to face legal challenges but also serve as a testing ground for the TikTok-free America that many national lawmakers have envisioned. Credit: AP Photo/Matt Slocum, File

Montana lawmakers moved one step closer Thursday to passing a bill to ban TikTok from operating in the state, a move that's bound to face legal challenges but also serve as a testing ground for the TikTok-free America that [many national lawmakers have envisioned](#).

Montana's proposal, which has backing from the state's GOP-controlled legislature, is more sweeping than bans in place in nearly half the states and the U.S. federal government that [prohibit TikTok on government devices](#).

The House endorsed the bill 60-39 on Thursday. A final House vote will likely take place Friday before the bill goes to Republican Gov. Greg Gianforte. He has banned TikTok on government devices in Montana. The Senate passed the bill 30-20 in March.

TikTok, which is owned by the Chinese tech company ByteDance, has been under intense scrutiny over [concerns it could hand over user data](#) to the Chinese government or push pro-Beijing propaganda and misinformation on the platform. Leaders at the FBI, CIA and numerous lawmakers of both parties have raised those concerns but haven't presented any evidence to prove it has happened.

Supporters of a ban point to two Chinese laws that compel companies in the country to cooperate with the government on state intelligence work. They also point out other troubling episodes, such as a disclosure by ByteDance in December that it fired four employees who accessed the IP addresses and other data of two journalists while attempting to uncover the source of a leaked report about the company.

Congress is considering legislation that doesn't call out TikTok, but gives the Commerce Department the ability to restrict foreign threats on tech platforms. That bill is being backed by the White House, but it has received pushback from privacy advocates, right-wing commentators

and others who say the language is too broad.

Montana Attorney General Austin Knudsen urged state lawmakers to pass the bill because he wasn't sure Congress would act quickly on a federal ban.

"I think Montana's got an opportunity here to be a leader," Knudsen, a Republican, told a House committee in March. He says the app is a tool used by the Chinese government to spy on Montanans.

Montana's ban would not take effect until January 2024 and would be void if Congress passes a ban or if TikTok severs its Chinese connections.

The bill would prohibit downloads of TikTok in Montana and would fine any "entity"—an app store or TikTok—\$10,000 per day for each time someone "is offered the ability" to access the social media platform or download the app. The penalties would not apply to users.

Opponents argued the bill amounted to government overreach and that residents could easily circumvent the proposed ban by using a Virtual Private Network. A VPN encrypts internet traffic and makes it more difficult for third parties to track online activities, steal data and determine a person's location.

At a hearing for the bill in March, a representative from the tech trade group TechNet said app stores also "do not have the ability to geofence" apps on a state by state basis and that it would be impossible for its members, like Apple and Google, to prevent TikTok from being downloaded in Montana.

Knudsen said Thursday the geofencing technology is used with online sports gambling apps, which he said are deactivated in states where

online gambling is illegal. Ashley Sutton, TechNet's executive director for Washington state and the northwest, said in a statement Thursday that the "responsibility should be on an app to determine where it can operate, not an app store."

"We've expressed these concerns to lawmakers. We hope the governor will work with lawmakers to amend the legislation to ensure companies that aren't intended targets of the legislation" aren't affected, Sutton said.

TikTok said in a statement it will "continue to fight for TikTok users and creators in Montana whose livelihoods and First Amendment rights are threatened by this egregious government overreach."

Some opponents of the bill have argued the state wasn't looking to ban other social media apps that collect similar types of data from their users.

"We also believe this is a blatant exercise of censorship and is an egregious violation of Montanans' free speech rights," said Keegan Medrano with the ACLU of Montana.

Democratic Rep. Katie Sullivan offered an amendment Thursday to broaden the ban to include any social media app that collected personal information and transferred it to a foreign adversary, such as Russia, Iran, Cuba, North Korea and Venezuela, along with China. The amendment was narrowly rejected 48-51.

Supporters of the bill said it made sense to target TikTok first because of specific concerns with China and that it was a step in the right direction even if it doesn't address challenges related to other social media companies.

TikTok has been pushing back against the bill. The company, which has

150 million users in the U.S., has encouraged users in the state to speak out against the bill and hired lobbyists to do so as well. It has also purchased billboards, run full-page newspaper ads and has a website opposing Montana's legislation. Some ads placed in local newspapers highlight how local businesses were able to use the app to drive sales.

The bill would "show Montana doesn't support entrepreneurs in our own state," Shauna White Bear, who owns White Bear Moccasins, said during a March 28 hearing. She noted her business receives much more engagement on TikTok than on other social media sites.

Knudsen, the attorney general whose office drafted the bill, said he expects the bill to face legal challenges if it passes.

"Frankly, I think it probably needs the courts to step in here," he said. "This is a really interesting, novel legal question that I think is ripe for some new jurisprudence."

The Montana bill isn't the first blanket ban the company has faced. In 2020, then-President Donald Trump issued executive orders that banned the use of TikTok and the Chinese messaging platform WeChat. Those efforts were nixed by the courts and shelved by the Biden administration.

TikTok continued [negotiations with the administration](#) on the security concerns tied to the app. Amid rising geopolitical tensions with China, the Biden administration more recently has threatened it could ban the app if the company's Chinese owners don't sell their stakes. To avoid either outcome, TikTok has been trying to sell a data safety proposal called "Project Texas" that would route all its U.S. user data to servers operated by the software giant Oracle.

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