

# ‘Your argument just confuses me’: judge questions Montana TikTok ban

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A federal judge appeared skeptical about Montana's TikTok ban in a hearing on Thursday, telling representatives of the state that their argument for restrictions on the app "just confuses me". US district judge Donald Molloy heard arguments in a case filed by TikTok and five Montana content creators who want the court to block the state's ban on the video-sharing app before it takes effect 1 January. Molloy called the impending ban "paternalistic", according to the Washington Post. After an hour, Molloy ended the hearing without ruling on the request for an injunction on the digital prohibition. He said he was baffled by the state's argument. "Your argument just confuses me. You need to protect consumers from having their data stolen. But everybody on TikTok voluntarily gives their personal data. If they want to give that information to whatever the platform is, how is it you can protect them?" he asked. Montana became the first state in the US to pass a complete ban on the app in May, based on the logic that the Chinese government could gain access to user information from TikTok, whose parent company, ByteDance, is based in Beijing. The bill would prohibit downloads of TikTok in the state and fine any "entity" – an app store or TikTok – \$10,000 a day each time someone "is offered the ability" to access or download the app. There would not be penalties for users. In asking for the preliminary injunction, TikTok argued that the app has been in use since 2017 and letting Montanans continue to use it will not harm the state. The company has said in court filings that the state passed its law based on "unsubstantiated allegations" that Montana cannot regulate foreign commerce and that the state could have passed a law requiring that TikTok limit the kinds of data it collects, or require parental controls, rather than trying to enact a complete ban. Molloy said the state had not brought enough evidence to support its claims of spying. TikTok has argued in legal filings that Montana's suit "ignores the reality that [TikTok] has not shared, and would not share, US user data". Molloy asked Montana's solicitor general, Christian Corrigan, whether his office had found anything in TikTok's records to debunk that claim. "We did not," Corrigan answered. Molloy chided Corrigan on the lawsuit's rationale. "That's sort of a paternalistic argument," Molloy said. "These people don't know what they're doing ... so we need to say 'ban TikTok' to keep citizens from exercising certain liberties or rights they may have." Content creators say the ban violates free speech rights and could cause economic harm for their businesses. More than half of US states and the federal government have banned TikTok on official devices. Utah sued TikTok on Tuesday, accusing the company of deceptive marketing practices, particularly with regard to safety and parental controls. The company has called the bans "political theater" and says further restrictions are unnecessary due to the efforts it is taking to protect US data by storing it on Oracle servers. Western governments have expressed worries that the popular social media platform could put sensitive data in the hands of the Chinese government or be used as a tool to spread misinformation. Chinese law allows its government to order companies to

help it gather intelligence. TikTok, which is negotiating with the federal government over its future in the US, has denied those allegations. That hasn't made the issue go away. The American Civil Liberties Union, its Montana chapter and the Electronic Frontier Foundation, a digital privacy rights advocacy group, have submitted an amicus brief in support of the challenge. Meanwhile, 18 attorneys generals from mostly Republican-led states are backing Montana and asking the judge to let the law be implemented. Even if that happens, cybersecurity experts have said it could be challenging to enforce. In a first-of-its-kind report on Chinese disinformation released last month, the US state department alleged that ByteDance seeks to block potential critics of Beijing, including those outside of China, from using its platforms.