

26 contains a substantial portion of such material to use
 27 certain verification methods and prevent access to
 28 such material by minors; providing applicability and
 29 construction; authorizing the department to bring an
 30 action for violations under the Florida Deceptive and
 31 Unfair Trade Practices Act; providing civil penalties;
 32 authorizing punitive damages under certain
 33 circumstances; providing for private causes of action;
 34 providing that certain commercial entities are subject
 35 to the jurisdiction of state courts; providing
 36 construction; authorizing the department to adopt
 37 rules; creating s. 501.1738, F.S.; defining the term
 38 "anonymous age verification method"; providing
 39 requirements for a third party conducting age
 40 verification pursuant to certain provisions; providing
 41 for severability; providing an effective date.

42

43 Be It Enacted by the Legislature of the State of Florida:

44

45 Section 1. Section 501.1736, Florida Statutes, is created
 46 to read:

47 501.1736 Social media use for minors.—

48 (1) As used in this section, the term:

49 (a) "Account holder" means a resident who opens an account
 50 or creates a profile or is identified by the social media

51 platform by a unique identifier while using or accessing a
52 social media platform when the social media platform knows or
53 has reason to believe the resident is located in this state.

54 (b) "Addictive features" means features associated with an
55 account holder having an excessive or compulsive need to use or
56 engage with the social media platform.

57 (c) "Anonymous age verification method" has the same
58 meaning as in s. 501.1738.

59 (d) "Daily active users" means the unique users in the
60 United States who used the social media platform at least 80
61 percent of the days during the previous 12 months, or if the
62 social media platform did not exist during the previous 12
63 months, the number of unique users in the United States who used
64 the social media platform at least 80 percent of the days during
65 the previous month.

66 (e) "Department" means the Department of Legal Affairs.

67 (f) "Resident" means a person who lives in this state for
68 more than 6 months of the year.

69 (g) "Social media platform" means an online forum, a
70 website, or an application offered by an entity which allows a
71 user to upload content or view the content or activity of other
72 users and which does any of the following:

73 1. Uses algorithms that analyze user data or information
74 on users to select content for users; or

75 2. Has any of the following addictive features:

76 a. Infinite scrolling with continuous loading content, or
77 content that loads as the user scrolls down the page without the
78 need to open a separate page; or seamless content, or the use of
79 pages with no visible or apparent breaks.

80 b. Push notifications or alerts sent by the online forum,
81 website, or application to inform a user about specific
82 activities or events related to the user's account.

83 c. Displays personal interactive metrics that indicate the
84 number of times other users have clicked a button to indicate
85 their reaction to content or have shared or reposted the
86 content.

87 d. Auto-play video or video that begins to play without
88 the user first clicking on the video or on a play button for
89 that video.

90 e. Live-streaming or a function that allows a user or
91 advertiser to broadcast live video content in real-time.

92
93 The term does not include an online service, a website, or an
94 application where the exclusive function is e-mail or direct
95 messaging consisting of text, photographs, pictures, images, or
96 videos shared only between the sender and the recipients,
97 without displaying or posting publicly or to other users not
98 specifically identified as the recipients by the sender.

99 (h) "Standard age verification method" means any
100 commercially reasonable method of age verification approved by

101 the social media platform.

102 (2)(a) A social media platform that uses any of the design
103 features specified in subparagraphs (1)(g)1. and 2. on the daily
104 active users on the social media platform who are younger than
105 16 years of age and that has had 10 percent or more of such
106 daily active users spend, on average, at least 2 hours per day
107 on the social media platform shall do all of the following:

108 1. Prohibit a minor who is younger than 16 years of age
109 from entering into a contract with a social media platform to
110 become an account holder.

111 2. Verify the age of each account holder on the social
112 media platform at the time a new account is created. If an
113 account holder fails to verify his or her age, the social media
114 platform must deny the account. Either an anonymous age
115 verification method or a standard method must be used to verify
116 age. The social media platform shall offer an anonymous age
117 verification method and may offer a standard age verification
118 method. If both methods are offered, a potential account holder
119 may select which method will be used to verify his or her age.

120 3. If age verification is performed using an anonymous age
121 verification method, ensure that the requirements of s. 501.1738
122 are met.

123 (b) A social media platform that uses any of the design
124 features specified in subparagraphs (1)(g)1. and 2. on the daily
125 active users on the social media platform who are younger than

126 16 years of age and that has had 10 percent or more of such
127 daily active users spend, on average, at least 2 hours per day
128 on the social media platform shall do the following for existing
129 accounts:

130 1. Terminate any account that the social media platform
131 knows or has reason to believe is held by an account holder
132 younger than 16 years of age, including accounts that the social
133 media platform treats or categorizes as belonging to an account
134 holder who is likely younger than 16 years of age for purposes
135 of targeting content or advertising, and provide a minimum of 90
136 days for an account holder to dispute such termination by
137 verifying his or her age.

138 2. Allow an account holder younger than 16 years of age to
139 request to terminate the account. Termination must be effective
140 within 5 business days after such request.

141 3. Allow the confirmed parent or guardian of an account
142 holder younger than 16 years of age to request the minor's
143 account be terminated. Termination must be effective within 10
144 business days after such request.

145 4. Permanently delete all personal information held by the
146 social media platform relating to the terminated account, unless
147 there are legal requirements to maintain such information.

148 (3) (a) Any knowing or reckless violation of subsection (2)
149 is deemed an unfair and deceptive trade practice actionable
150 under part II of this chapter solely by the department against a

151 social media platform. If the department has reason to believe
152 that a social media platform is in violation of subsection (2),
153 the department, as the enforcing authority, may bring an action
154 against such platform for an unfair or deceptive act or
155 practice. For the purpose of bringing an action pursuant to this
156 section, ss. 501.211 and 501.212 do not apply. In addition to
157 other remedies under part II of this chapter, the department may
158 collect a civil penalty of up to \$50,000 per violation and
159 reasonable attorney fees and court costs. When the social media
160 platform's failure to comply with subsection (2) is a consistent
161 pattern of knowing or reckless conduct, punitive damages may be
162 assessed against the social media platform.

163 (b) A third party that knowingly or recklessly performs
164 age verification for a social media platform in violation of s.
165 501.1738 is deemed to have committed an unfair and deceptive
166 trade practice actionable under part II of this chapter solely
167 by the department against such third party. If the department
168 has reason to believe that the third party is in violation of s.
169 501.1738, the department, as the enforcing authority, may bring
170 an action against such third party for an unfair or deceptive
171 act or practice. For the purpose of bringing an action pursuant
172 to this section, ss. 501.211 and 501.212 do not apply. In
173 addition to other remedies under part II of this chapter, the
174 department may collect a civil penalty of up to \$50,000 per
175 violation and reasonable attorney fees and court costs.

176 (4) (a) A social media platform that knowingly or
177 recklessly violates subparagraph (2) (b)2. or subparagraph
178 (2) (b)3. for failing to terminate an account within the required
179 time after being notified to do so by the minor account holder
180 or a confirmed parent or guardian is liable to such minor
181 account holder for failing to terminate the account, including
182 court costs and reasonable attorney fees as ordered by the
183 court. Claimants may be awarded up to \$10,000 in damages.

184 (b) A civil action for a claim under this subsection must
185 be brought within 1 year after the violation.

186 (5) Any action brought under subsection (3) or subsection
187 (4) may only be brought on behalf of a minor account holder.

188 (6) For purposes of bringing an action in accordance with
189 subsection (3) or subsection (4), a social media platform that
190 allows a minor account holder younger than 16 years of age to
191 create an account on such platform is considered to be both
192 engaged in substantial and not isolated activities within this
193 state and operating, conducting, engaging in, or carrying on a
194 business and doing business in this state, and is therefore
195 subject to the jurisdiction of the courts of this state.

196 (7) If a social media platform allows an account holder to
197 use the social media platform, the parties have entered into a
198 contract.

199 (8) This section does not preclude any other available
200 remedy at law or equity.

201 (9) The department may adopt rules to implement this
202 section.

203 Section 2. Section 501.1737, Florida Statutes, is created
204 to read:

205 501.1737 Age verification for online access to materials
206 harmful to minors.-

207 (1) As used in this section, the term:

208 (a) "Anonymous age verification method" has the same
209 meaning as in s. 501.1738.

210 (b) "Commercial entity" includes a corporation, a limited
211 liability company, a partnership, a limited partnership, a sole
212 proprietorship, and any other legally recognized entity.

213 (c) "Department" means the Department of Legal Affairs.

214 (d) "Distribute" means to issue, sell, give, provide,
215 deliver, transfer, transmit, circulate, or disseminate by any
216 means.

217 (e) "Material harmful to minors" means any material that:

218 1. The average person applying contemporary community
219 standards would find, taken as a whole, appeals to the prurient
220 interest;

221 2. Depicts or describes, in a patently offensive way,
222 sexual conduct as specifically defined in s. 847.001(19); and

223 3. When taken as a whole, lacks serious literary,
224 artistic, political, or scientific value for minors.

225 (f) "News-gathering organization" means any of the

226 following:

227 1. A newspaper, news publication, or news source, printed
228 or published online or on a mobile platform, engaged in
229 reporting current news and matters of public interest, and an
230 employee thereof who can provide documentation of such
231 employment.

232 2. A radio broadcast station, television broadcast
233 station, cable television operator, or wire service, and an
234 employee thereof who can provide documentation of such
235 employment.

236 (g) "Publish" means to communicate or make information
237 available to another person or entity on a publicly available
238 website or application.

239 (h) "Resident" means a person who lives in this state for
240 more than 6 months of the year.

241 (i) "Standard age verification method" means any
242 commercially reasonable method of age verification approved by
243 the commercial entity.

244 (j) "Substantial portion" means more than 33.3 percent of
245 total material on a website or application.

246 (2) A commercial entity that knowingly and intentionally
247 publishes or distributes material harmful to minors on a website
248 or application, if the website or application contains a
249 substantial portion of material harmful to minors, must use
250 either an anonymous age verification method or a standard age

251 verification method to verify that the age of a person
252 attempting to access the material is 18 years of age or older
253 and prevent access to the material by a person younger than 18
254 years of age. The commercial entity must offer an anonymous age
255 verification method and may offer a standard age verification
256 method. If both methods are offered, a person attempting to
257 access the material may select which method will be used to
258 verify his or her age.

259 (3) A commercial entity must ensure that the requirements
260 of s. 501.1738 are met.

261 (4) (a) This section does not apply to any bona fide news
262 or public interest broadcast, website video, report, or event
263 and does not affect the rights of a news-gathering organization.

264 (b) An Internet service provider or its affiliates or
265 subsidiaries, a search engine, or a cloud service provider does
266 not violate this section solely for providing access or
267 connection to or from a website or other information or content
268 on the Internet or a facility, system, or network not under the
269 provider's control, including transmission, downloading,
270 intermediate storage, or access software, to the extent the
271 provider is not responsible for the creation of the content of
272 the communication which constitutes material harmful to minors.

273 (5) (a) Any violation of subsection (2) or subsection (3)
274 is deemed an unfair and deceptive trade practice actionable
275 under part II of this chapter solely by the department on behalf

276 of a resident minor against a commercial entity. If the
277 department has reason to believe that a commercial entity is in
278 violation of subsection (2) or subsection (3), the department,
279 as the enforcing authority, may bring an action against the
280 commercial entity for an unfair or deceptive act or practice.
281 For the purpose of bringing an action pursuant to this section,
282 ss. 501.211 and 501.212 do not apply. In addition to any other
283 remedy under part II of this chapter, the department may collect
284 a civil penalty of up to \$50,000 per violation and reasonable
285 attorney fees and court costs. When the commercial entity's
286 failure to comply with subsection (2) or subsection (3) is a
287 consistent pattern of conduct of the commercial entity, punitive
288 damages may be assessed against the commercial entity.

289 (b) A third party that performs age verification for a
290 commercial entity in violation of s. 501.1738 is deemed to have
291 committed an unfair and deceptive trade practice actionable
292 under part II of this chapter solely by the department against
293 such third party. If the department has reason to believe that
294 the third party is in violation of s. 501.1738, the department,
295 as the enforcing authority, may bring an action against such
296 third party for an unfair or deceptive act or practice. For the
297 purpose of bringing an action pursuant to this section, ss.
298 501.211 and 501.212 do not apply. In addition to other remedies
299 under part II of this chapter, the department may collect a
300 civil penalty of up to \$50,000 per violation and reasonable

301 attorney fees and court costs.

302 (c) A commercial entity that violates subsection (2) for
303 failing to prohibit or block a minor from future access to
304 material harmful to minors after a report of unauthorized or
305 unlawful access is liable to the minor for such access,
306 including court costs and reasonable attorney fees as ordered by
307 the court. Claimants may be awarded up to \$10,000 in damages. A
308 civil action for a claim under this paragraph must be brought
309 within 1 year after the violation.

310 (d) Any action under this subsection may only be brought
311 on behalf of or by a resident minor.

312 (6) For purposes of bringing an action under subsection
313 (5), a commercial entity that publishes or distributes material
314 harmful to minors on a website or application, if the website or
315 application contains a substantial portion of material harmful
316 to minors and such website or application is available to be
317 accessed in this state, is considered to be both engaged in
318 substantial and not isolated activities within this state and
319 operating, conducting, engaging in, or carrying on a business
320 and doing business in this state, and is therefore subject to
321 the jurisdiction of the courts of this state.

322 (7) This section does not preclude any other available
323 remedy at law or equity.

324 (8) The department may adopt rules to implement this
325 section.

326 Section 3. Section 501.1738, Florida Statutes, is created
 327 to read:

328 501.1738 Anonymous age verification.-

329 (1) As used in this section, the term "anonymous age
 330 verification method" means a commercially reasonable method used
 331 by a government agency or a business for the purpose of age
 332 verification which is conducted by a nongovernmental,
 333 independent third party organized under the laws of a state of
 334 the United States which:

335 (a) Has its principal place of business in a state of the
 336 United States; and

337 (b) Is not owned or controlled by a company formed in a
 338 foreign country, a government of a foreign country, or any other
 339 entity formed in a foreign country.

340 (2) A third party conducting age verification pursuant to
 341 ss. 501.1736 and 501.1737:

342 (a) May not retain personal identifying information used
 343 to verify age once the age of an account holder or a person
 344 seeking an account has been verified.

345 (b) May not use personal identifying information used to
 346 verify age for any other purpose.

347 (c) Must keep anonymous any personal identifying
 348 information used to verify age. Such information may not be
 349 shared or otherwise communicated to any person.

350 (d) Must protect personal identifying information used to

351 verify age from unauthorized or illegal access, destruction,
352 use, modification, or disclosure through reasonable security
353 procedures and practices appropriate to the nature of the
354 personal information.

355 Section 4. If any provision of this act or its application
356 to any person or circumstances is held invalid, the invalidity
357 does not affect other provisions or applications of this act
358 which can be given effect without the invalid provision or
359 application, and to this end the provisions of this act are
360 severable.

361 Section 5. This act shall take effect July 1, 2024.