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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2024	.	
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The Committee on Judiciary (Grall) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 501.1737, Florida Statutes, is created
to read:

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

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

(a) "Commercial entity" includes a corporation, limited
liability company, partnership, limited partnership, sole



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12 proprietorship, and any other legally recognized entity.
13 (b) "Department" means the Department of Legal Affairs.
14 (c) "Distribute" means to issue, sell, give, provide,
15 deliver, transfer, transmit, circulate, or disseminate by any
16 means.
17 (d) "Material harmful to minors" means any material that:
18 1. The average person applying contemporary community
19 standards would find, taken as a whole, appeals to the prurient
20 interest;
21 2. Depicts or describes, in a patently offensive way,
22 sexual conduct as specifically defined in s. 847.001(19); and
23 3. When taken as a whole, lacks serious literary, artistic,
24 political, or scientific value for minors.
25 (e) "News-gathering organization" means any of the
26 following:
27 1. A newspaper, news publication, or news source, printed
28 or published online or on a mobile platform, engaged in
29 reporting current news and matters of public interest, and an
30 employee thereof who can provide documentation of such
31 employment.
32 2. A radio broadcast station, television broadcast station,
33 cable television operator, or wire service, and an employee
34 thereof who can provide documentation of such employment.
35 (f) "Publish" means to communicate or make information
36 available to another person or entity on a publicly available
37 website or application.
38 (g) "Reasonable age verification methods" means any
39 commercially reasonable method regularly used by government
40 agencies or businesses for the purpose of age and identity



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41 verification.

42 (h) "Substantial portion" means more than 33.3 percent of
43 total material on a website or application.

44 (2) A commercial entity that knowingly and intentionally
45 publishes or distributes material harmful to minors on a website
46 or application, if the website or application contains a
47 substantial portion of material harmful to minors, must:

48 (a) Perform reasonable age verification methods to verify
49 the age of a person attempting to access the material is 18
50 years of age or older and prevent access to the material by a
51 person younger than 18 years of age. The reasonable age
52 verification method must be conducted by a nongovernmental,
53 independent, third-party not affiliated with the commercial
54 entity.

55 (b) Provide an easily accessible link or function on its
56 homepage, landing page, or age verification page to allow a
57 minor user or the confirmed parent or guardian of a minor user
58 to report unauthorized or unlawful access. Within 5 days after
59 such report, the commercial entity must prohibit or block future
60 access by such minor.

61 (3) A commercial entity or third party that performs
62 reasonable age verification methods may not retain any personal
63 identifying information of the person seeking online access to
64 material harmful to minors any longer than is reasonably
65 necessary to verify the age of the person. Any personal
66 identifying information collected for age verification may not
67 be used for any other purpose.

68 (4) (a) This section does not apply to any bona fide news or
69 public interest broadcast, website video, report, or event and



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70 does not affect the rights of a news-gathering organization.

71 (b) An Internet service provider or its affiliates or
72 subsidiaries, a search engine, or a cloud service provider does
73 not violate this section solely for providing access or
74 connection to or from a website or other information or content
75 on the Internet or a facility, system, or network not under the
76 provider's control, including transmission, downloading,
77 intermediate storage, or access software, to the extent the
78 provider is not responsible for the creation of the content of
79 the communication which constitutes material harmful to minors.

80 (5) (a) Any violation of subsection (2) or subsection (3) is
81 an unfair and deceptive trade practice actionable under part II
82 of this chapter solely by the department on behalf of a Florida
83 minor against a commercial entity. If the department has reason
84 to believe that a commercial entity is in violation of
85 subsection (2) or subsection (3), the department, as the
86 enforcing authority, may bring an action against the commercial
87 entity for an unfair or deceptive act or practice. For the
88 purpose of bringing an action pursuant to this section, ss.
89 501.211 and 501.212 do not apply. In addition to any other
90 remedy under part II of this chapter, the department may collect
91 a civil penalty of up to \$50,000 per violation of this section.

92 (b) A commercial entity that violates subsection (2) for
93 failing to prohibit or block a minor from future access to
94 material harmful to minors after a report of unauthorized or
95 unlawful access is liable to the minor for such access,
96 including court costs and reasonable attorney fees as ordered by
97 the court. Claimants may be awarded up to \$10,000 in damages. A
98 civil action for a claim under this paragraph must be brought



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99 within 1 year after the violation.

100 (c) Any action under this subsection may only be brought on
101 behalf of or by a Florida minor.

102 (6) For purposes of bringing an action under subsection
103 (5), a commercial entity that publishes or distributes material
104 harmful to minors on a website or application, if the website or
105 application contains a substantial portion of material harmful
106 to minors and such website or application is available to be
107 accessed in Florida, is considered to be both engaged in
108 substantial and not isolated activities within this state and
109 operating, conducting, engaging in, or carrying on a business
110 and doing business in this state, and is therefore subject to
111 the jurisdiction of the courts of this state.

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

114 (8) The department may adopt rules to implement this
115 section.

116 Section 2. This act shall take effect July 1, 2024.

117
118 ===== T I T L E A M E N D M E N T =====

119 And the title is amended as follows:

120 Delete everything before the enacting clause
121 and insert:

122 A bill to be entitled
123 An act relating to online access to materials harmful
124 to minors; creating s. 501.1737, F.S.; providing
125 definitions; requiring a commercial entity that
126 publishes or distributes material harmful to minors on
127 a website or application that contains a substantial



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128 portion of such material to perform reasonable age
129 verification methods, prevent access to such material
130 by minors, and provide methods for reporting
131 unauthorized or unlawful access; prohibiting the
132 retention of certain personal identifying information;
133 providing applicability and construction; authorizing
134 the Department of Legal Affairs to bring an action for
135 violations under the Florida Deceptive and Unfair
136 Trade Practices Act; providing civil penalties;
137 providing for private causes of action; providing that
138 certain commercial entities are subject to the
139 jurisdiction of state courts; providing construction;
140 authorizing the department to adopt rules; providing
141 an effective date.