

By Senator Grall

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1 A bill to be entitled
2 An act relating to online access to materials harmful
3 to minors; creating s. 501.1737, F.S.; defining terms;
4 requiring a commercial entity that knowingly and
5 intentionally publishes or distributes material
6 harmful to minors on a website or application that
7 contains a substantial portion of such material to
8 perform reasonable age verification methods and
9 methods for reporting unauthorized or unlawful access;
10 prohibiting the retention of certain personal
11 identifying information; providing applicability and
12 construction; authorizing the Department of Legal
13 Affairs to bring an action for violations under the
14 Florida Deceptive and Unfair Trade Practices Act;
15 providing civil penalties; providing for private
16 causes of action; providing that certain commercial
17 entities are subject to the jurisdiction of state
18 courts; providing construction; authorizing the
19 department to adopt rules; providing an effective
20 date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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

26 501.1737 Age verification for online access to materials
27 harmful to minors.-

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

29 (a) "Commercial entity" includes a corporation, limited

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30 liability company, partnership, limited partnership, sole
31 proprietorship, and any other legally recognized entity.

32 (b) "Department" means the Department of Legal Affairs.

33 (c) "Distribute" means to issue, sell, give, provide,
34 deliver, transfer, transmute, circulate, or disseminate by any
35 means.

36 (d) "Material harmful to minors" means any material that:

37 1. The average person, applying contemporary community
38 standards, would find, taken as a whole, appeals to the prurient
39 interest;

40 2. Depicts or describes, in a patently offensive way,
41 sexual conduct as defined in s. 847.001; and

42 3. Taken as a whole, lacks serious literary, artistic,
43 political, or scientific value for minors.

44 (e) "News-gathering organization" means any of the
45 following:

46 1. A newspaper, news publication, or news source, printed
47 or published online or on a mobile platform, engaged in
48 reporting current news and matters of public interest, and
49 includes an employee who can provide documentation of such
50 employment.

51 2. A radio broadcast station, television broadcast station,
52 cable television operator, or wire service, and includes an
53 employee who can provide documentation of such employment.

54 (f) "Publish" means to communicate or make information
55 available to another person or entity on a publicly available
56 website or application.

57 (g) "Reasonable age verification methods" means any
58 commercially reasonable method regularly used by government

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59 agencies and businesses for the purpose of age and identity
60 verification.

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

63 (2) A commercial entity that knowingly and intentionally
64 publishes or distributes material harmful to minors on a website
65 or application, if such website or application contains a
66 substantial portion of material harmful to minors, must:

67 (a) Perform reasonable age verification methods to verify
68 that the age of a person attempting to access the material is 18
69 years of age or older, and prevent access to such material by a
70 person under 18 years of age. The reasonable age verification
71 method must be conducted by an independent third party not
72 affiliated with the commercial entity.

73 (b) Provide an easily accessible link or function on its
74 homepage, landing page, or age verification page to allow a
75 minor user or the confirmed parent or guardian of a minor user
76 to report unauthorized or unlawful access. Within 5 days after
77 such report, the commercial entity must prohibit or block future
78 access by such minor.

79 (3) A commercial entity or third party that performs
80 reasonable age verification methods may not retain any personal
81 identifying information of the person seeking online access to
82 material harmful to minors any longer than is reasonably
83 necessary to verify the age of the person. Any personal
84 identifying information collected for age verification may not
85 be used for any other purpose.

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

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

89 (b) An Internet service provider or its affiliates or
90 subsidiaries, a search engine, or a cloud service provider does
91 not violate this section solely for providing access or
92 connection to or from a website or other information or content
93 on the Internet or a facility, system, or network not under the
94 provider's control, including transmission, downloading,
95 intermediate storage, or access software, to the extent the
96 provider is not responsible for the creation of the content of
97 the communication which constitutes material harmful to minors.

98 (5) (a) Any violation of subsection (2) or subsection (3) is
99 an unfair and deceptive trade practice actionable under part II
100 of this chapter solely by the department on behalf of a Florida
101 minor against a commercial entity. If the department has reason
102 to believe that a commercial entity is in violation of
103 subsection (2) or subsection (3), the department, as the
104 enforcing authority, may bring an action against the commercial
105 entity for an unfair or deceptive act or practice. For the
106 purpose of bringing an action pursuant to this section, ss.
107 501.211 and 501.212 do not apply. In addition to any other
108 remedy under part II of this chapter, the department may collect
109 a civil penalty of up to \$50,000 per violation of this section.

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

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117 within 1 year after the violation.

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

120 (6) For purposes of bringing an action under subsection
121 (5), a commercial entity that publishes or distributes material
122 harmful to minors on a website or application, if such website
123 or application contains a substantial portion of material
124 harmful to minors and such website or application is available
125 to be accessed in Florida, is considered to be both engaged in
126 substantial and not isolated activities within this state and
127 operating, conducting, engaging in, or carrying on a business
128 and doing business in this state, and is therefore subject to
129 the jurisdiction of the courts of this state.

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

132 (8) The department may adopt rules to implement this
133 section.

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