

By the Committee on Judiciary; and Senators Grall and Garcia

590-02931-24

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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.; providing
4 definitions; requiring a commercial entity that
5 publishes or distributes material harmful to minors on
6 a website or application that contains a substantial
7 portion of such material to perform reasonable age
8 verification methods, prevent access to such material
9 by minors, and provide methods for reporting
10 unauthorized or unlawful access; prohibiting the
11 retention of certain personal identifying information;
12 providing applicability and construction; authorizing
13 the Department of Legal Affairs to bring an action for
14 violations under the Florida Deceptive and Unfair
15 Trade Practices Act; providing civil penalties;
16 providing for private causes of action; providing that
17 certain commercial entities are subject to the
18 jurisdiction of state courts; providing construction;
19 authorizing the department to adopt rules; providing
20 an effective 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, transmit, 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 specifically defined in s. 847.001(19); and

42 3. When 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 an
49 employee thereof 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 an employee
53 thereof 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 or 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 the website or application contains a
66 substantial portion of material harmful to minors, must:

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

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

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

87 (4) (a) This section does not apply to any bona fide news or

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88 public interest broadcast, website video, report, or event and
89 does not affect the rights of a news-gathering organization.

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

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

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

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117 civil action for a claim under this paragraph must be brought
118 within 1 year after the violation.

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

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

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

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

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