

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.

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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
 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,
 43 artistic, 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
52 station, cable television operator, or wire service, and an
53 employee thereof who can provide documentation of such
54 employment.

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

58 (g) "Reasonable age verification methods" means any
59 commercially reasonable method regularly used by government
60 agencies or businesses for the purpose of age and identity
61 verification.

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

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

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

75 (b) Provide an easily accessible link or function on its

76 homepage, landing page, or age verification page to allow a
77 minor user or the confirmed parent or guardian of a minor user
78 to report unauthorized or unlawful access. Within 5 days after
79 such report, the commercial entity must prohibit or block future
80 access by such minor.

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

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

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

100 (5) (a) Any violation of subsection (2) or subsection (3)

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

112 (b) A commercial entity that violates subsection (2) for
113 failing to prohibit or block a minor from future access to
114 material harmful to minors after a report of unauthorized or
115 unlawful access is liable to the minor for such access,
116 including court costs and reasonable attorney fees as ordered by
117 the court. Claimants may be awarded up to \$10,000 in damages. A
118 civil action for a claim under this paragraph must be brought
119 within 1 year after the violation.

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

122 (6) For purposes of bringing an action under subsection
123 (5), a commercial entity that publishes or distributes material
124 harmful to minors on a website or application, if the website or
125 application contains a substantial portion of material harmful

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126 | to minors and such website or application is available to be
127 | accessed in Florida, is considered to be both engaged in
128 | substantial and not isolated activities within this state and
129 | operating, conducting, engaging in, or carrying on a business
130 | and doing business in this state, and is therefore subject to
131 | the jurisdiction of the courts of this state.

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

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

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