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LEGISLATIVE ACTION

Senate

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House

The Committee on Fiscal Policy (Hutson) 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, a limited



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11 liability company, a partnership, a limited partnership, a sole
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 a
39 commercially reasonable method used by a government agency or a



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40 business for the purpose of age verification which is conducted
41 by a nongovernmental, independent, third-party organized under
42 the laws of a state of the United States which:

43 1. Has its principal place of business in a state of the
44 United States; and

45 2. Is not owned or controlled by a company formed in a
46 foreign country, a government of a foreign country, or any other
47 entity formed in a foreign country.

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

50 (i) "Substantial portion" means more than 33.3 percent of
51 total material on a website or application.

52 (2) A commercial entity that knowingly and intentionally
53 publishes or distributes material harmful to minors on a website
54 or application, if the website or application contains a
55 substantial portion of material harmful to minors, must perform
56 reasonable age verification methods to verify the age of a
57 person attempting to access the material is 18 years of age or
58 older and prevent access to the material by a person younger
59 than 18 years of age.

60 (3) A third party conducting age verification:

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

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

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



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69 (d) Must protect personal identifying information used to
70 verify age from unauthorized or illegal access, destruction,
71 use, modification, or disclosure through reasonable security
72 procedures and practices appropriate to the nature of the
73 personal information.

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

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

86 (5) (a) Any violation of subsection (2) or subsection (3) is
87 deemed an unfair and deceptive trade practice actionable under
88 part II of this chapter solely by the department on behalf of a
89 resident minor against a commercial entity. If the department
90 has reason to believe that a commercial entity is in violation
91 of subsection (2) or subsection (3), the department, as the
92 enforcing authority, may bring an action against the commercial
93 entity for an unfair or deceptive act or practice. For the
94 purpose of bringing an action pursuant to this section, ss.
95 501.211 and 501.212 do not apply. In addition to any other
96 remedy under part II of this chapter, the department may collect
97 a civil penalty of up to \$50,000 per violation of this section.



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

106 (c) Any action under this subsection may only be brought on
107 behalf of or by a resident minor.

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

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

120 (8) The department may adopt rules to implement this
121 section.

122 Section 2. If any provision of this act or its application
123 to any person or circumstances is held invalid, the invalidity
124 does not affect other provisions or applications of this act
125 which can be given effect without the invalid provision or
126 application, and to this end the provisions of this act are



127 severable.

128 Section 3. This act shall take effect July 1, 2024.

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130 ===== T I T L E A M E N D M E N T =====

131 And the title is amended as follows:

132 Delete everything before the enacting clause

133 and insert:

134 A bill to be entitled

135 An act relating to online protections for minors;
136 creating s. 501.1737, F.S.; defining terms; requiring
137 a commercial entity that publishes or distributes
138 material harmful to minors on a website or application
139 that contains a substantial portion of such material
140 to perform reasonable age verification methods and
141 prevent access to such material by minors; providing
142 requirements for a third party conducting age
143 verification; providing applicability; authorizing the
144 Department of Legal Affairs to bring an action for
145 violations under the Florida Deceptive and Unfair
146 Trade Practices Act; providing civil penalties;
147 providing for private causes of action; providing that
148 certain commercial entities are subject to the
149 jurisdiction of state courts; providing construction;
150 authorizing the department to adopt rules; providing
151 for severability; providing an effective date.