

SECOND REGULAR SESSION

# HOUSE BILL NO. 2375

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CHRISTENSEN.

5051H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to pornography website access.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.2095, to read as follows:

**407.2095. 1. For purposes of this section, the following terms mean:**

(1) "Commercial entity", includes corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized entities;

(2) "Distribute", to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means;

(3) "Internet", the international computer network of both federal and non-federal interoperable packet switched data networks;

(4) "Material harmful to minors", includes:

(a) Any material that the average person applying contemporary community standards would find, taking the material as a whole and with respect to minors, is designed to appeal to or pander to the prurient interest;

(b) Any of the following material that exploits, is devoted to, or principally consists of descriptions of actual, simulated, or animated display or depiction of any of the following, in a manner patently offensive with respect to minors:

a. Pubic hair, anus, vulva, genitals, or nipple of the female breast;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

17           **b. Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or**  
18 **genitals; or**

19           **c. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation,**  
20 **flagellation, excretory functions, exhibitions, or any other sexual act; and**

21           **(c) The material taken as a whole lacks serious literary, artistic, political, or**  
22 **scientific value for minors;**

23           **(5) "Minor", any person under eighteen years of age;**

24           **(6) "News-gathering organization", any of the following:**

25           **(a) An employee of a newspaper, news publication, or news source, printed or on**  
26 **an online or mobile platform, of current news and public interest, while operating as an**  
27 **employee as provided in this paragraph, who can provide documentation of such**  
28 **employment with the newspaper, news publication, or news source; or**

29           **(b) An employee of a radio broadcast station, television broadcast station, cable**  
30 **television operator, or wire service while operating as an employee as provided in this**  
31 **paragraph, who can provide documentation of such employment;**

32           **(7) "Publish", to communicate or make information available to another person**  
33 **or entity on a publicly available internet website;**

34           **(8) "Reasonable age-verification methods", verifying that a person seeking to**  
35 **access material is eighteen years of age or older by requiring the person attempting to**  
36 **access the material to comply with a commercial age-verification system that verifies age**  
37 **in one or more of the following ways:**

38           **(a) Government-issued identification; or**

39           **(b) Any commercially reasonable method that relies on public or private**  
40 **transactional data to verify the age of the person attempting to access the information is**  
41 **at least eighteen years of age or older;**

42           **(9) "Substantial portion", more than thirty-three and one-third percent of total**  
43 **material on a website, which meets the definition of "material harmful to minors" as**  
44 **defined under this section;**

45           **(10) "Transactional data", a sequence of information that documents an**  
46 **exchange, agreement, or transfer between an individual, commercial entity, or third**  
47 **party used for the purpose of satisfying a request or event. Transactional data may**  
48 **include, but is not limited to, records from mortgage, education, and employment**  
49 **entities.**

50           **2. Any commercial entity that knowingly and intentionally publishes or**  
51 **distributes material harmful to minors on the internet from a website that contains a**  
52 **substantial portion of such material shall be held liable if the entity fails to perform**

53 reasonable age-verification methods to verify the age of individuals attempting to access  
54 the material.

55       **3. Any commercial entity or third party that performs the required age**  
56 **verification shall not retain any identifying information of the individual after access**  
57 **has been granted to the material.**

58       **4. Any commercial entity that is found to have violated this section shall be liable**  
59 **to an individual for damages resulting from a minor's accessing the material, including**  
60 **court costs and reasonable attorney's fees as ordered by the court.**

61       **5. A commercial entity that is found to have knowingly retained identifying**  
62 **information of the individual after access has been granted to the individual shall be**  
63 **liable to the individual for damages resulting from retaining the identifying information,**  
64 **including court costs and reasonable attorney's fees as ordered by the court.**

65       **6. This section shall not apply to any bona fide news or public interest broadcast,**  
66 **website video, report, or event and shall not be construed to affect the rights of any**  
67 **news-gathering organizations.**

68       **7. No internet service provider, or its affiliates or subsidiaries, search engine, or**  
69 **cloud service provider shall be held to have violated the provisions of this section solely**  
70 **for providing access or connection to or from a website or other information or content**  
71 **on the internet or a facility, system, or network not under that provider's control**  
72 **including transmission, downloading, intermediate storage, access software, or other**  
73 **activity to the extent such provider is not responsible for the creation of the content of**  
74 **the communication that constitutes material harmful to minors.**

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