

SENATE BILL NO. 961

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

3923S.01H

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 407, RSMo, by adding thereto two new sections relating to material harmful to minors, with penalty provisions.

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

Section A. Chapter 407, RSMo, is amended by adding thereto
2 two new sections, to be known as sections 407.3005 and 407.3007,
3 to read as follows:

**407.3005. For purposes of sections 407.3005 to
2 407.3007, the following terms shall mean:**

3 (1) "Age verification", verifying that a person
4 seeking to access the material is eighteen years of age or
5 older by requiring the person attempting to access the
6 material to comply with a commercial age verification system
7 that verifies in any of the following ways:

8 (a) Government-issued identification;

9 (b) Any commercially reasonable method that relies on
10 public or private transactional data to verify that the
11 person attempting to access the information is at least
12 eighteen years of age or older;

13 (2) "Commercial entity", a corporation, limited
14 liability company, partnership, limited partnership, sole
15 proprietorship, or another legally recognized entity;

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

19 (4) "Internet", the international computer network of
20 both federal and nonfederal interoperable packet switched
21 data networks;

22 (5) "Material harmful to minors", all of the following:

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

28 (b) Any of the following material that exploits, is
29 devoted to, or principally consists of descriptions of
30 actual, simulated, or animated displays or depictions of any
31 of the following, in a manner patently offensive with
32 respect to minors:

33 a. Pubic hair, anus, vulva, genitals, or a female
34 nipple;

35 b. Touching, caressing, or fondling of nipples or
36 breasts of females, buttocks, anuses, or genitals;

37 c. Sexual intercourse, masturbation, sodomy,
38 bestiality, oral copulation, flagellation, excretory
39 functions, exhibitions, or any other sexual act;

40 d. Material, taken as a whole, that lacks serious
41 literary, artistic, political, or scientific value for
42 minors;

43 (6) "Minor", any person under the age of eighteen;

44 (7) "News-gathering organization", any newspaper, news
45 publication, or news source, printed or on an online or
46 mobile platform, of current news and public interest, radio
47 broadcast station, television broadcast station, or cable
48 television operator focused on delivering news to the
49 general public;

50 (8) "Publish", to communicate or make information
51 available to another person or entity on a publicly
52 available website;

53 (9) "Substantial portion", more than thirty-three and
54 one-third percent of total material on a website which meets
55 the definition of material harmful to minors;

56 (10) "Transactional data", a sequence of information
57 that documents an exchange, agreement, or transfer between
58 an individual, commercial entity, or third party used for
59 the purpose of satisfying a request or event including, but
60 is not limited to, records from mortgage, education, and
61 employers.

407.3007. 1. A commercial entity shall not publish or
2 distribute material harmful to minors on the internet from a
3 website that contains a substantial portion of such
4 material, unless the commercial entity performs age
5 verification to ensure that an individual attempting to
6 access material harmful to minors is at least eighteen years
7 of age.

8 2. Any individual may report violations of this
9 section to the attorney general. If the attorney general
10 finds that a commercial entity violated provisions of this
11 section, the attorney general shall bring a civil action
12 against the commercial entity in a court of competent
13 jurisdiction.

14 3. If the court finds that a commercial entity
15 violated provisions of this section, the court may grant
16 actual damages, injunctive relief, civil penalties not to
17 exceed five thousand dollars for each day of the violation,
18 attorney fees, and any other relief the court finds
19 appropriate.

20 4. The attorney general may request additional civil
21 penalty not to exceed ten thousand dollars for each day of
22 the violation of this section against a commercial entity.

23 5. There is hereby created in the state treasury the
24 "Cyber Exploitation of Children Fund". Moneys in the fund
25 shall be expended for the investigation of cyber crimes
26 involving the exploitation of children. The attorney
27 general shall administer the fund. In accordance with
28 sections 30.170 and 30.180, the state treasurer may approve
29 disbursements. The fund shall be a dedicated fund and money
30 in the fund shall be used solely for the purposes of the
31 implementation of sections 407.3005 and 407.3007.

32 Notwithstanding the provisions of section 33.080 to the
33 contrary, any moneys remaining in the fund at the end of the
34 biennium shall not revert to the credit of the general
35 revenue fund. The state treasurer shall invest moneys in
36 the fund in the same manner as other funds are invested.
37 Any interest and moneys earned on such investments shall be
38 credited to the fund.

39 6. The attorney general shall deposit all civil
40 penalties granted by the court for violation of this section
41 into the cyber exploitation of children fund.

42 7. This section shall not be construed to affect the
43 rights of any news-gathering organization.

44 8. This section shall not apply to any internet
45 service provider, or its affiliates or subsidiaries, search
46 engine, or cloud service provider that provides access or
47 connection to or from a website or other information or
48 content on the internet or a facility, system, or network
49 not under the control of that provider, including
50 transmission, downloading, intermediate storage, access
51 software, or other related capabilities, to the extent the

52 provider is not responsible for the creation of the content
53 of the communication that constitutes material harmful to
54 minors.

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