

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 3097

By: Hasenbeck

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; defining  
9 terms; making commercial entities liable for  
10 publishing or distributing obscene material;  
11 providing internet and cellular service subscribers  
12 the opportunity to make certain request; requiring  
13 commercial entities to block access without charge;  
14 establishing liability provisions for violations;  
15 providing exemptions from liability; prohibiting the  
16 retention of identifying information; providing  
17 liability provisions for retaining identifying  
18 information; seek injunctive and other relief for  
19 noncompliance; authorizing and directing the Attorney  
20 General to develop and publish certain guidelines and  
21 regulations; providing for codification; and  
22 providing an effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1040.81 of Title 21, unless  
there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Child pornography" shall have the same meaning as such term  
is defined in Section 1024.1 of Title 21 of the Oklahoma Statutes;

1       2. "Child sexual exploitation" shall have the same meaning as  
2 such term is defined in Section 843.5 of Title 21 of the Oklahoma  
3 Statutes;

4       3. "Commercial entity" includes corporations, limited liability  
5 companies, partnerships, limited partnerships, sole proprietorships,  
6 or other legally recognized entities;

7       4. "Digitized identification card" means a data file available  
8 on any mobile device which has connectivity to the Internet through  
9 a state-approved application that allows the mobile device to  
10 download the data file from a state agency or an authorized agent of  
11 a state agency that contains all of the data elements visible on the  
12 face and back of a license or identification card and displays the  
13 current status of the license or identification card;

14       5. "Distribute" means to issue, sell, give, provide, deliver,  
15 transfer, transmit, circulate, or disseminate by any means;

16       6. "Harmful to minors" shall have the same meaning as such term  
17 is defined in Section 1040.75 of Title 21 of the Oklahoma Statutes;

18       7. "Internet" means the international computer network of both  
19 federal and non-federal interoperable packet switched data networks;

20       8. "Minor" means any person under eighteen (18) years of age;

21       9. "News-gathering organization" means any of the following:

- 22           a. an employee of a newspaper, news publication, or news  
23           source, printed or on an online or mobile platform, of  
24           current news and public interest, while operating as

1 an employee as provided in this subparagraph, who can  
2 provide documentation of such employment with the  
3 newspaper, news publication, or news source, or

4 b. an employee of a radio broadcast station, television  
5 broadcast station, cable television operator, or wire  
6 service while operating as an employee as provided in  
7 this subparagraph, who can provide documentation of  
8 such employment;

9 10. "Obscene material" shall have the same meaning as such term  
10 is defined in Section 1024.1 of Title 21 of the Oklahoma Statutes;

11 11. "Publish" means to communicate or make information  
12 available to another person or entity on a publicly available  
13 Internet website;

14 12. "Reasonable age verification methods" means verifying that  
15 the person seeking to access the material is eighteen (18) years of  
16 age or older by using any of the following methods:

17 a. use of a digitized information card as defined in this  
18 section,

19 b. verification through an independent, third-party age  
20 verification service that compares the personal  
21 information entered by the individual who is seeking  
22 access to the material that is available from a  
23 commercially available database, or aggregate of  
24 databases, that is regularly used by government

1 agencies and businesses for the purpose of age and  
2 identity verification, or

3 c. any commercially reasonable method that relies on  
4 public or private transactional data to verify the age  
5 of the person attempting to access the material;

6 13. "Subscriber" means a person who pays to receive or access a  
7 service;

8 14. "Substantial portion" means more than thirty-three and one-  
9 third percent (33 1/3%) of total material on a website, which meets  
10 the definition of "material harmful to minors" as defined in this  
11 section; and

12 15. "Transactional data" means a sequence of information that  
13 documents an exchange, agreement, or transfer between an individual,  
14 commercial entity, or third party used for the purpose of satisfying  
15 a request or an event. Transactional data includes records from  
16 mortgage, education, and employment entities.

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1040.82 of Title 21, unless  
19 there is created a duplication in numbering, reads as follows:

20 A. Any commercial entity that knowingly and intentionally  
21 publishes or distributes obscene material, or material that depicts  
22 or promotes child pornography or child sexual exploitation, on the  
23 Internet or any other type of electronic, digital, or print media,  
24 may be held liable to an individual for nominal damages, actual

1 damages, court costs, and reasonable attorney fees as ordered by the  
2 court.

3 B. A commercial entity that has violated the provisions of this  
4 act in a manner that satisfies the standards for imposition of  
5 punitive damages elsewhere provided by law may be held liable to an  
6 individual for punitive damages.

7 C. Individual claims that satisfy the generally applicable  
8 standards for joinder or class action elsewhere provided by law or  
9 rules of court, as applicable, may combine their claims in a single  
10 action.

11 SECTION 3. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1040.83 of Title 21, unless  
13 there is created a duplication in numbering, reads as follows:

14 A. Any commercial entity that knowingly and intentionally  
15 publishes or distributes material harmful to minors on the Internet  
16 from a website that contains a substantial portion of such material  
17 shall provide internet service subscribers and cellular service  
18 subscribers the opportunity, before any individual using such  
19 services may access the material, to request that access to the  
20 material by subscription service be denied.

21 B. Upon such request by an Internet service subscriber or  
22 cellular service subscriber, a commercial entity shall, without  
23 charge, block access to its website on any device seeking to access  
24 its website using the internet service or cellular service

1 subscription of the subscriber so that a minor does not receive  
2 material harmful to minors via that subscription.

3 C. A commercial entity that fails to provide Internet service  
4 subscribers or cellular service subscribers an opportunity to  
5 request that access to the website of the commercial entity be  
6 blocked is in violation of the provisions of this act and may be  
7 held liable to the minor, by and through the parent or legal  
8 guardian of the minor, for nominal damages, actual damages, court  
9 costs, and reasonable attorney fees as ordered by the court.

10 D. A commercial entity that, after receipt of such request to  
11 block access, allows a minor to access material harmful to minors on  
12 its website is in violation of the provisions of this act and may be  
13 held liable to the minor, by and through the parent or legal  
14 guardian of the minor, for nominal damages, actual damages, court  
15 costs, and reasonable attorney fees as ordered by the court.

16 E. A commercial entity that has violated the provisions of this  
17 act in a manner that satisfies the standards for imposition of  
18 punitive damages elsewhere provided by law may be held liable to the  
19 minor, by and through the parent or legal guardian of the minor, for  
20 punitive damages.

21 F. Individual claims that satisfy the generally applicable  
22 standards for joinder or class action elsewhere provided by law or  
23 rules of court, as applicable, may combine their claims in a single  
24 action.

1 G. A commercial entity shall not be held liable for allowing  
2 access to its website if the commercial entity performs reasonable  
3 age verification methods to verify that the individual attempting to  
4 access the material from its website is not a minor.

5 H. A commercial entity or third party that performs the  
6 required age verification shall not retain any identifying  
7 information of the individual after access has been granted to the  
8 material.

9 I. A commercial entity that is found to have knowingly retained  
10 identifying information of the individual, except as reasonably  
11 necessary to effectuate a block request under the provisions of this  
12 section, shall be liable to the individual for damages resulting  
13 from retaining the identifying information, including nominal  
14 damages, actual damages, court costs, and reasonable attorney fees  
15 as ordered by the court.

16 J. This section shall not apply to any bona fide news or public  
17 interest broadcast, website video, report, or event and shall not be  
18 construed to affect the rights of a news-gathering organization,  
19 unless the website of the organization contains a substantial  
20 portion of material harmful to minors.

21 K. No Internet service provider, affiliate, or subsidiary of an  
22 Internet service provider, search engine, or cloud service provider  
23 shall be held to have violated the provisions of this section solely  
24 for providing access or connection to or from a website or other

1 information or content on the Internet, or a facility, system, or  
2 network not under the control of the provider, including  
3 transmission, downloading, storing, or providing access, to the  
4 extent that such provider is not responsible for the creation of the  
5 content of the communication that constitutes obscene material or  
6 material harmful to minors.

7 SECTION 4. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1040.84 of Title 21, unless  
9 there is created a duplication in numbering, reads as follows:

10 A. The Attorney General may seek injunctive and other equitable  
11 relief against a commercial entity that fails to comply with the  
12 provisions of this act.

13 B. The Attorney General is authorized and directed to develop  
14 and publish, consistent with the provisions of this act, guidance,  
15 or regulations as appropriate to assist commercial entities to  
16 comply with the provisions of this act.

17 SECTION 5. This act shall become effective November 1, 2024.

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19 59-2-10427 GRS 02/22/24

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