

1 **SENATE FLOOR VERSION**

2 April 2, 2024

3 ENGROSSED HOUSE
4 BILL NO. 3097

By: Hasenbeck, Conley, and
Cantrell of the House

5 and

6 Alvord of the Senate

7
8
9 An Act relating to crimes and punishments; defining
10 terms; making commercial entities liable for
publishing or distributing obscene material;
11 providing internet and cellular service subscribers
the opportunity to make certain request; requiring
12 commercial entities to block access without charge;
establishing liability provisions for violations;
13 providing exemptions from liability; prohibiting the
retention of identifying information; providing
14 liability provisions for retaining identifying
information; seek injunctive and other relief for
15 noncompliance; authorizing and directing the Attorney
General to develop and publish certain guidelines and
16 regulations; providing for codification; and
providing an effective date.

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

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

23 As used in this act:
24

- 1 1. "Child pornography" shall have the same meaning as such term
2 is defined in Section 1024.1 of Title 21 of the Oklahoma Statutes;
- 3 2. "Child sexual exploitation" shall have the same meaning as
4 such term is defined in Section 843.5 of Title 21 of the Oklahoma
5 Statutes;
- 6 3. "Commercial entity" includes corporations, limited liability
7 companies, partnerships, limited partnerships, sole proprietorships,
8 or other legally recognized entities;
- 9 4. "Digitized identification card" means a data file available
10 on any mobile device which has connectivity to the Internet through
11 a state-approved application that allows the mobile device to
12 download the data file from a state agency or an authorized agent of
13 a state agency that contains all of the data elements visible on the
14 face and back of a license or identification card and displays the
15 current status of the license or identification card;
- 16 5. "Distribute" means to issue, sell, give, provide, deliver,
17 transfer, transmit, circulate, or disseminate by any means;
- 18 6. "Harmful to minors" shall have the same meaning as such term
19 is defined in Section 1040.75 of Title 21 of the Oklahoma Statutes;
- 20 7. "Internet" means the international computer network of both
21 federal and non-federal interoperable packet switched data networks;
- 22 8. "Minor" means any person under eighteen (18) years of age;
- 23 9. "News-gathering organization" means any of the following:
- 24

- 1 a. an employee of a newspaper, news publication, or news
2 source, printed or on an online or mobile platform, of
3 current news and public interest, while operating as
4 an employee as provided in this subparagraph, who can
5 provide documentation of such employment with the
6 newspaper, news publication, or news source, or
7 b. an employee of a radio broadcast station, television
8 broadcast station, cable television operator, or wire
9 service while operating as an employee as provided in
10 this subparagraph, who can provide documentation of
11 such employment;

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

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

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

- 20 a. use of a digitized information card as defined in this
21 section,
22 b. verification through an independent, third-party age
23 verification service that compares the personal
24 information entered by the individual who is seeking

1 access to the material that is available from a
2 commercially available database, or aggregate of
3 databases, that is regularly used by government
4 agencies and businesses for the purpose of age and
5 identity verification, or

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

9 13. "Subscriber" means a person who pays to receive or access a
10 service;

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

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

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

23 A. Any commercial entity that knowingly and intentionally
24 publishes or distributes obscene material, or material that depicts

1 or promotes child pornography or child sexual exploitation, on the
2 Internet or any other type of electronic, digital, or print media,
3 may be held liable to an individual for nominal damages, actual
4 damages, court costs, and reasonable attorney fees as ordered by the
5 court.

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

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

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

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

24

1 B. Upon such request by an Internet service subscriber or
2 cellular service subscriber, a commercial entity shall, without
3 charge, block access to its website on any device seeking to access
4 its website using the Internet service or cellular service
5 subscription of the subscriber so that a minor does not receive
6 material harmful to minors via that subscription.

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

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

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

1 F. Individual claims that satisfy the generally applicable
2 standards for joinder or class action elsewhere provided by law or
3 rules of court, as applicable, may combine their claims in a single
4 action.

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

9 H. A commercial entity or third party that performs the
10 required age verification shall not retain any identifying
11 information of the individual after access has been granted to the
12 material.

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

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

1 K. No Internet service provider, affiliate, or subsidiary of an
2 Internet service provider, search engine, or cloud service provider
3 shall be held to have violated the provisions of this section solely
4 for providing access or connection to or from a website or other
5 information or content on the Internet, or a facility, system, or
6 network not under the control of the provider, including
7 transmission, downloading, storing, or providing access, to the
8 extent that such provider is not responsible for the creation of the
9 content of the communication that constitutes obscene material or
10 material harmful to minors.

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

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

17 B. The Attorney General is authorized and directed to develop
18 and publish, consistent with the provisions of this act, guidance,
19 or regulations as appropriate to assist commercial entities to
20 comply with the provisions of this act.

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

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
23 April 2, 2024 - DO PASS
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