

1 ENGROSSED SENATE
2 BILL NO. 1959

By: Alvord, Bullard, and Jett
of the Senate

3 and

4 Hasenbeck of the House
5
6

7 An Act relating to consumer protection; defining
8 terms; allowing for damages to be sought under
9 certain conditions; prohibiting commercial entities
10 from distributing certain material without
11 verification; providing for lawful access to certain
12 material; preventing a commercial entity from being
13 held liable under certain conditions; prohibiting a
14 commercial entity from retaining individual's
15 information; exempting certain providers; requiring
16 Attorney General to take certain action; authorizing
17 Attorney General to develop certain regulations;
18 providing for severability; providing for
19 codification; and providing an effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 791 of Title 15, unless there is
created a duplication in numbering, reads as follows:

As used in this act:

1. "Child pornography" means the same as used in Section 1024.1
of Title 21 of the Oklahoma Statutes;

2. "Child sexual exploitation" means the same as used in
Section 843.5 of Title 21 of the Oklahoma Statutes;

1 3. "Commercial entity" means a corporation, limited liability
2 company, partnership, limited partnership, sole proprietorship, or
3 other legally recognized entity;

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

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

13 6. "Harmful to minors" means the same as terms defined in
14 Sections 1040.75 through 1040.77 of Title 21 of the Oklahoma
15 Statutes;

16 7. "Internet" means the international computer network of both
17 federal and nonfederal interoperable packet switched data networks;

18 8. "Minor" means any person eighteen (18) years of age or
19 younger;

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

- 21 a. an employee of a newspaper, news publication, or news
22 source, printed or on an online or mobile platform, of
23 current news and public interest, while operating as
24 an employee as provided in this subsection, who can

1 provide documentation of such employment with the
2 newspaper, news publication, or news source, or
3 b. an employee of a radio broadcast station, television
4 broadcast station, cable television operator, or wire
5 service while operating as an employee as provided in
6 this subsection, who can provide documentation of such
7 employment;

8 10. "Obscene material" means the same as used in Section 1024.1
9 of Title 21 of the Oklahoma Statutes;

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

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

- 16 a. use of a digitized identification card as defined in
17 this section,
18 b. verification through an independent, third-party age
19 verification service that compares the personal
20 information entered by the individual who is seeking
21 access to the material that is available from a
22 commercially available database, or aggregate of
23 databases, that is regularly used by government
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1 agencies and businesses for 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. "Substantial portion" means when more than a third of the
7 total material available on the website meets the definition of
8 material harmful to minors as defined in this section; and

9 14. "Transactional data" means a sequence of information that
10 documents as exchange, agreement, or transfer between an individual,
11 commercial entity, or a third party used for the purpose of
12 satisfying a request or event. Transactional data may include, but
13 not be limited to, records from mortgage, education, and employment
14 entities.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 791.1 of Title 15, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Any commercial entity that knowingly and intentionally
19 publishes or distributes obscene material, or material that depicts
20 or promotes child pornography or child sexual exploitation, on the
21 Internet may be held liable to an individual for nominal damages,
22 actual damages, court costs, and reasonable attorney fees as ordered
23 by the court.

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

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

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 791.2 of Title 15, unless there
11 is created a duplication in numbering, reads as follows:

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

19 B. Upon such request by an Internet service subscriber or
20 cellular service subscriber, a commercial entity shall, without
21 charge, block access to its website on any device seeking to access
22 its website using the subscriber's Internet service or cellular
23 service subscription so that a minor does not receive material
24 harmful to minors via that subscription.

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

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

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

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

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

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

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

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

18 K. No Internet service provider, affiliate or subsidiary of an
19 Internet service provider, search engine, or cloud service provider
20 shall be held to have violated the provisions of this section solely
21 for providing access or connection to or from a website or other
22 information or content on the Internet, or a facility, system, or
23 network not under the provider's control, including transmission,
24 downloading, storing, or providing access, to the extent that such

1 provider is not responsible for the creation of the content of the
2 communication that constitutes obscene material or material harmful
3 to minors.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 791.3 of Title 15, unless there
6 is created a duplication in numbering, reads as follows:

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

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

14 SECTION 5. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 791.4 of Title 15, unless there
16 is created a duplication in numbering, reads as follows:

17 If any one or more provisions, sections, subsections, sentences,
18 clauses, phrases, or words of this act or the application thereof to
19 any person or circumstance is found to be unconstitutional, the same
20 is hereby declared to be severable and the balance of this act shall
21 remain effective notwithstanding such unconstitutionality. The
22 Legislature hereby declares that it would have this act, and each
23 provision, section, subsection, sentence, clause, phrase, or word
24 thereof, irrespective of the fact that any one or more provisions,

