

An Act

ENROLLED SENATE
BILL NO. 1959

By: Alvord, Bullard, and Jett
of the Senate

and

Hasenbeck, Maynard, Roe,
and Stark of the House

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

SUBJECT: Age verification and explicit materials

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

SECTION 1. NEW LAW A new section of law to be codified 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;

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

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

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

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

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

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

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

- a. an employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, while operating as an employee as provided in this subsection, who can provide documentation of such employment with the newspaper, news publication, or news source, or
- b. an employee of a radio broadcast station, television broadcast station, cable television operator, or wire service while operating as an employee as provided in this subsection, who can provide documentation of such employment;

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

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

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

- a. use of a digitized identification card as defined in this section,
- b. verification through an independent, third-party age verification service that compares the personal information entered by the individual who is seeking access to the material that is available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for purpose of age and identity verification, or
- c. any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material;

13. "Substantial portion" means when more than a third of the total material available on the website meets the definition of material harmful to minors as defined in this section; and

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

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

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

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

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

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

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

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

C. A commercial entity that fails to provide Internet service subscribers or cellular service subscribers an opportunity to request that access to the commercial entity's website be blocked is in violation of this act and may be held liable to the minor, by and through the minor's parent or legal guardian, for nominal damages,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. This act shall become effective November 1, 2024.

Passed the Senate the 5th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____