

SENATE BILL NO. 901

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HENDERSON.

5428S.011

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to age verification on adult websites, 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 one new section, to be known as section 407.3405, to read as
3 follows:

407.3405. 1. As used in this section, the following
2 terms mean:

3 (1) "Age verification", a method by which a commercial
4 entity verifies the age of an individual by requiring the
5 individual to:

6 (a) Provide digital identification; or

7 (b) Comply with a commercial age verification system
8 that verifies age using:

9 a. Government-issued identification; or

10 b. A commercially reasonable method that relies on
11 public or private transactional data to verify the age of an
12 individual;

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

16 (3) "Digital identification", information stored on a
17 digital network that may be accessed by a commercial entity
18 and that serves as proof of the identity of an individual;

19 (4) "Distribute", to issue, sell, give, provide,
20 deliver, transfer, transmute, circulate, or disseminate by
21 any means;

22 (5) "Minor", an individual younger than eighteen years
23 of age;

24 (6) "News-gathering organization":

25 (a) An employee of a newspaper, news publication, or
26 news source, printed or on an online or mobile platform, of
27 current news and public interest, who is acting within the
28 course and scope of that employment and can provide
29 documentation of that employment with the newspaper, news
30 publication, or news source; and

31 (b) An employee of a radio broadcast station,
32 television broadcast station, cable television operator, or
33 wire service who is acting within the course and scope of
34 that employment and can provide documentation of that
35 employment;

36 (7) "Publish", to communicate or make information
37 available to another person or entity on a publicly
38 available internet website;

39 (8) "Sexual material harmful to minors", any material
40 that:

41 (a) The average person applying contemporary community
42 standards would find, taking the material as a whole and
43 with respect to minors, is designed to appeal to or pander
44 to the prurient interest; or

45 (b) In a manner patently offensive with respect to
46 minors, exploits, is devoted to, or principally consists of

descriptions of actual, simulated, or animated displays or depictions of:

a. A person's pubic hair, anus, or genitals or the nipple of the female breast;

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

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

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors;

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

2. A commercial entity that knowingly and intentionally publishes or distributes material on an internet website, including a social media platform, more than one-third of which is sexual material harmful to minors, shall use reasonable age verification methods to verify that an individual attempting to access the material is eighteen years of age or older.

3. A commercial entity that performs the age verification or a third party that performs the age verification under this section shall not retain any identifying information of the individual.

4. A commercial entity required to use reasonable age verification methods under this section shall:

(1) Display the following notices on its website and all advertisements for the website on which sexual material

79 harmful to minors is published or distributed in a fourteen-
80 point font or larger:

81 "(a) Pornography is potentially biologically
82 addictive, is proven to harm human brain
83 development, desensitizes brain reward circuits,
84 increases conditioned responses, and weakens brain
85 function;

86 (b) Exposure to this content is associated with
87 low self-esteem and body image, eating disorders,
88 impaired brain development, and other emotional and
89 mental illnesses; and

90 (c) Pornography increases the demand for
91 prostitution, child exploitation, and child
92 pornography."; and

93 (2) Display the following notice at the bottom of
94 every page on the commercial entity's website in a fourteen-
95 point font or larger:

96 "U.S. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES
97 ADMINISTRATION THIS HELPLINE IS A FREE,
98 CONFIDENTIAL INFORMATION SERVICE (IN ENGLISH OR
99 SPANISH) OPEN 24 HOURS PER DAY, FOR INDIVIDUALS AND
100 FAMILY MEMBERS FACING MENTAL HEALTH OR SUBSTANCE
101 USE DISORDERS. THE SERVICE PROVIDES REFERRAL TO
102 LOCAL TREATMENT FACILITIES, SUPPORT GROUPS, AND
103 COMMUNITY-BASED ORGANIZATIONS."

104 5. This section shall not apply to a bona fide news or
105 public interest broadcast, website video, report, or event
106 and shall not be construed to affect the rights of a news-
107 gathering organization.

108 6. An internet service provider, or its affiliates or
109 subsidiaries, a search engine, or a cloud service provider

shall not be held to have violated provisions of this section solely for providing access or connection to or from a website or other information or content on the internet or on a facility, system, or network not under that provider's control, including transmission, downloading, intermediate storage, access software, or other services to the extent the provider or search engine is not responsible for the creation of the content that constitutes sexual material harmful to minors.

7. The attorney general shall enforce provisions of this section. If the attorney general believes that a commercial entity is knowingly violating or has knowingly violated provisions of this section and the action is in the public interest, the attorney general may bring an action in a court of competent jurisdiction. If the court finds that a violation occurred, the court may grant damages, injunctive relief, civil penalties, court costs and reasonable attorney fees, and any such other relief the court finds appropriate. Civil penalties shall be as follows:

(1) Ten thousand dollars per day that a commercial entity operates a website in violation of the age verification requirements under this section;

(2) Ten thousand dollars per instance when a commercial entity retains identifying information in violation of this section; and

(3) An additional amount of not more than two hundred fifty thousand dollars if one or more minors accessed sexual material harmful to minors in violation of the age verification requirements under this section.

✓