

HOUSE BILL NO. 1426

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGIRL.

3040H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to civil liability for publishing or distributing material harmful to minors on the internet.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be
2 known as section 537.106, to read as follows:

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

2 (1) "Interactive computer service", any information service, system, or access
3 software provider that provides or enables computer access by multiple users to a
4 computer server, including, specifically, a service or system that provides access to the
5 internet and such systems operated or services offered by libraries or educational
6 institutions;

7 (2) "Material harmful to minors", any description or representation of nudity,
8 sexual conduct, sexual excitement, or sadomasochistic abuse when it:

9 (a) Appeals to the prurient, shameful, or morbid interest of minors;

10 (b) Is patently offensive to prevailing standards in the adult community as a
11 whole with respect to what is suitable material for minors; and

12 (c) Is, when taken as a whole, lacking in serious literary, artistic, political, or
13 scientific value for minors;

14 (3) "Sexual conduct", actual or explicitly simulated acts of masturbation, sexual
15 intercourse, or physical contact in an act of apparent sexual stimulation or gratification
16 with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a
17 female;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **(4) "Substantial portion", more than thirty-three and one-third percent of total**
19 **material on a website that meets the definition of material harmful to minors.**

20 **2. Any commercial entity that knowingly or intentionally publishes or**
21 **distributes material harmful to minors on the internet from a website that contains a**
22 **substantial portion of such material shall, through the use of a commercially available**
23 **database that is regularly used by businesses or governmental entities for the purpose of**
24 **age and identity verification or another commercially reasonable method of age and**
25 **identity verification, verify that any person attempting to access such material harmful**
26 **to minors is eighteen years of age or older.**

27 **3. Any commercial entity that violates the provisions of this section shall be**
28 **subject to civil liability for damages resulting from a minor's access to such material**
29 **harmful to a minor and reasonable attorney's fees and costs.**

30 **4. Nothing in this section shall be construed to impose an obligation or liability**
31 **on a provider or user of an interactive computer service on the internet.**

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