

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 916, Page 6, Section 492.304, Line 42, by
2 inserting after said section and line the following:

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4 "537.104. 1. As used in this section, the following terms mean:

5 (1) "Commercial entity", includes corporations, limited liability companies, partnerships,
6 limited partnerships, sole proprietorships, or other legally recognized entities;

7 (2) "Distribute", to issue, sell, give, provide, deliver, transfer, transmute, circulate, or
8 disseminate by any means;

9 (3) "Internet", the international computer network of both federal and nonfederal
10 interoperable packet-switched data networks;

11 (4) "Material harmful to minors", all of the following:

12 (a) Any material that the average person, applying contemporary community standards,
13 would find taking the material as a whole and with respect to minors is designed to appeal to, or is
14 designed to pander to, the prurient interest;

15 (b) Any of the following material that exploits, is devoted to, or principally consists of
16 descriptions of actual, simulated, or animated display or depiction of any of the following, in a
17 manner patently offensive with respect to minors:

18 a. Pubic hair, anus, vulva, genitals, or nipple of the female breast;

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

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

22 (c) The material taken as a whole lacks serious literary, artistic, political, or scientific value
23 for minors;

24 (5) "Minor", any person under eighteen years of age;

25 (6) "News-gathering organization", any of the following:

26 (a) An employee of a newspaper, news publication, or news source, printed or on an online
27 or mobile platform, of current news and public interest, while operating as an employee as provided
28 in this paragraph, who can provide documentation of such employment with the newspaper, news
29 publication, or news source; or

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(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 paragraph, who can provide documentation of such employment;

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

(8) "Reasonable age-verification methods", any commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification, or any other commercially reasonable method of age and identity verification.

2. (1) Any commercial entity for which it is in the regular course of trade or business to publish or distribute in this state a website in which thirty-three percent or more of total material on the website is material harmful to minors shall be held liable if the entity fails to perform reasonable age-verification methods to verify the age of individuals attempting to access the material.

(2) The age-verification provider shall not retain any identifying information of the individual after access has been granted or denied to the material.

(3) (a) Any commercial entity that is found to have violated this section shall be liable to an individual for damages resulting from a minor accessing the material, including court costs and reasonable attorney's fees as ordered by the court.

(b) A commercial entity that is found to have knowingly retained identifying information of the individual after access has been granted to the individual shall be liable to the individual for damages resulting from retaining the identifying information, including court costs and reasonable attorney's fees as ordered by the court.

3. (1) The provisions of 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 any news-gathering organizations.

(2) No internet service provider or its affiliates or subsidiaries, search engine, or cloud service provider shall be held to have violated the provisions of this section 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 that provider's control, including transmission, downloading, storage, access software, or other to the extent such provider is not responsible for the creation of the content of the communication that constitutes material harmful to minors."; and

Further amend said bill, Page 8, Section 558.041, Line 79, by inserting after said section and line the following:

"Section B. Because immediate action is necessary to protect the safety of children, the enactment of section 537.104 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 537.104 of section A of this act shall be in full force and effect upon its passage and approval."; and

- 1 Further amend said bill by amending the title, enacting clause, and intersectional references
- 2 accordingly.