

SECOND REGULAR SESSION

HOUSE BILL NO. 1839

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GALLICK.

4734H.02I

JOSEPH ENGLER, Chief Clerk

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 one new section, to be known as section 407.3405, to read as follows:

- 407.3405. 1. As used in this section, the following terms mean:**
- (1) "Age verification", a method by which a commercial entity verifies the age of an individual by requiring the individual to:
- (a) Provide digital identification; or
 - (b) Comply with a commercial age-verification system that verifies age using:
 - a. Government-issued identification; or
 - b. A commercially reasonable method that relies on public or private transactional data to verify the age of an individual;
- (2) "Commercial entity", a corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legally recognized business entity;
- (3) "Digital identification", information stored on a digital network that may be accessed by a commercial entity and that serves as proof of the identity of an individual;
- (4) "Distribute", to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means;
- (5) "Minor", an individual younger than eighteen years of age;
- (6) "News-gathering organization":

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.

17 (a) An employee of a newspaper, news publication, or news source, printed or on
18 an online or mobile platform, of current news and public interest, who is acting within
19 the course and scope of that employment and can provide documentation of that
20 employment with the newspaper, news publication, or news source; and

21 (b) An employee of a radio broadcast station, television broadcast station, cable
22 television operator, or wire service who is acting within the course and scope of that
23 employment and can provide documentation of that employment;

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

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

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

30 (b) In a manner patently offensive with respect to minors, exploits, is devoted to,
31 or principally consists of descriptions of actual, simulated, or animated displays or
32 depictions of:

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

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

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

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

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

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

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

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

54 (1) Display the following notices on its website and all advertisements for the
55 website on which sexual material harmful to minors is published or distributed in a
56 fourteen-point font or larger:

57 **"Pornography is potentially biologically addictive, is proven to harm human**
58 **brain development, desensitizes brain reward circuits, increases conditioned**
59 **responses, and weakens brain function.**

60 Exposure to this content is associated with low self-esteem and body image,
61 eating disorders, impaired brain development, and other emotional and mental
62 illnesses.

63 **Pornography increases the demand for prostitution, child exploitation, and child**
64 **pornography."; and**

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

67 "U.S. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES
68 ADMINISTRATION

69 THIS HELPLINE IS A FREE, CONFIDENTIAL INFORMATION SERVICE
70 (IN ENGLISH OR SPANISH) OPEN 24 HOURS PER DAY, FOR
71 INDIVIDUALS AND FAMILY MEMBERS FACING MENTAL HEALTH OR
72 SUBSTANCE USE DISORDERS. THE SERVICE PROVIDES REFERRAL TO
73 LOCAL TREATMENT FACILITIES, SUPPORT GROUPS, AND
74 COMMUNITY-BASED ORGANIZATIONS."

75 **5. This section shall not apply to a bona fide news or public interest broadcast,**
76 **website video, report, or event and shall not be construed to affect the rights of a news-**
77 **gathering organization.**

6. An internet service provider, or its affiliates or 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 the provisions of this section. If the attorney general believes that a commercial entity is knowingly violating or has knowingly violated the 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,

90 civil penalties, court costs and reasonable attorney's fees, and any such other relief the
91 court finds appropriate. Civil penalties shall be as follows:

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

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

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

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