

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1839, 2921 & 3015

103RD GENERAL ASSEMBLY

4734H.04P

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
2 known as section 407.3405, to read as follows:

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

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

4 **(a) Provide digital identification; or**

5 **(b) Comply with a commercial age-verification system that verifies age using:**

6 **a. Government-issued identification; or**

7 **b. A commercially reasonable method that relies on public or private**
8 **transactional data to verify the age of an individual;**

9 **(2) "Commercial entity", a corporation, limited liability company, partnership,**
10 **limited partnership, sole proprietorship, or other legally recognized business entity;**

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

13 **(4) "Distribute", to issue, sell, give, provide, deliver, transfer, transmute,**
14 **circulate, or disseminate by any means;**

15 **(5) "Minor", an individual younger than eighteen years of age;**

16 **(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 a third party to perform**
47 **reasonable age-verification methods to verify that an individual attempting to access the**
48 **material is eighteen years of age or older.**

49 **3. A third party that performs the age verification under this section shall not**
50 **retain any identifying information of the individual.**

51 **4. This section shall not apply to a bona fide news or public interest broadcast,**
52 **website video, report, or event and shall not be construed to affect the rights of a news-**
53 **gathering organization.**

54 **5. An internet service provider, or its affiliates or subsidiaries, a search engine,**
55 **or a cloud service provider shall not be held to have violated provisions of this section**
56 **solely for providing access or connection to or from a website or other information or**
57 **content on the internet or on a facility, system, or network not under that provider's**
58 **control, including transmission, downloading, intermediate storage, access software, or**
59 **other services to the extent the provider or search engine is not responsible for the**
60 **creation of the content that constitutes sexual material harmful to minors.**

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

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

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

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

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