

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 HOUSE BILL 3008

 By: Randleman

5
6
7
8 AS INTRODUCED

9 An Act relating to crimes and punishments; defining
10 terms; making commercial entities liable for
11 publishing or distributing material harmful to minors
12 under certain circumstances; prohibiting commercial
13 entities from retaining identifying information;
14 providing for damages, court costs, and reasonable
15 attorney fees; providing exceptions; providing for
16 codification; and providing an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1040.59 of Title 21, unless
20 there is created a duplication in numbering, reads as follows:

21 A. As used in this section:

22 1. "Commercial entity" includes corporations, limited liability
23 companies, partnerships, limited partnerships, sole proprietorships,
24 or other legally recognized entities;

 2. "Distribute" means to issue, sell, give, provide, deliver,
transfer, transmit, circulate, or disseminate by any means;

1 3. "Internet" means the international computer network of both
2 federal and nonfederal interoperable packet switched data networks;

3 4. "Material harmful to minors" includes:

4 a. any material that the average person applying
5 contemporary community standards would find that the
6 material, taken as a whole and with respect to minors,
7 is designed to appeal to or pander to the prurient
8 interest,

9 b. any of the following material that exploits, is
10 devoted to, or principally consists of descriptions of
11 actual, simulated, or animated display or depiction of
12 any of the following, in a manner patently offensive
13 with respect to minors:

14 (1) pubic hair, anus, vulva, genitals, or nipple of
15 the female breast,

16 (2) touching, caressing, or fondling of nipples,
17 breasts, buttocks, anuses, or genitals, or

18 (3) sexual intercourse, masturbation, sodomy,
19 bestiality, oral copulation, flagellation,
20 excretory functions, exhibitions, or any other
21 sexual act, and

22 c. any material that, taken as a whole, lacks serious
23 literary, artistic, political, or scientific value for
24 minors;

1 5. "Minor" means any person under eighteen (18) years of age;

2 6. "News-gathering journalist" means any of the following:

3 a. an employee of a newspaper, news publication, or news
4 source that is printed or published to an online or
5 mobile platform of current news and public interest
6 stories, who can provide documentation of such
7 employment with a newspaper, news publication, or news
8 source, or

9 b. an employee of a radio broadcast station, television
10 broadcast station, cable television operator, or wire
11 service agency, who can provide documentation of such
12 employment with a radio broadcast station, television
13 broadcast station, cable television operator, or wire
14 service agency;

15 7. "Publish" means to communicate or make information available
16 to another person or entity on a publicly available Internet
17 website;

18 8. "Reasonable age verification methods" include verifying that
19 the person seeking to access the material is eighteen (18) years of
20 age or older by using any of the following methods:

21 a. a digitized identification card, or
22 b. require the person attempting to access the material
23 to comply with a commercial age verification system
24 that verifies in one or more of the following ways:

- 1 (1) government-issued identification, or
- 2 (2) any commercially reasonable method that relies on
- 3 public or private transactional data to verify
- 4 whether the person attempting to access the
- 5 information is eighteen (18) years of age or
- 6 older;

7 9. "Substantial portion" means more than thirty-three and one-
8 third percent (33 1/3%) of total material on a website, which meets
9 the definition of material harmful to minors as defined in this
10 subsection; and

11 10. "Transactional data" means a sequence of information that
12 documents an exchange, agreement, or transfer between an individual,
13 commercial entity, or third party used for the purpose of satisfying
14 a request or event. Transactional data may include, but is not
15 limited to, records from mortgage, education, and employment
16 entities.

17 B. 1. Any commercial entity that knowingly and intentionally
18 publishes or distributes material harmful to minors on the Internet
19 from a website that contains a substantial portion of such material
20 shall be held liable if the entity fails to perform reasonable age
21 verification methods to verify the age of individuals attempting to
22 access the material.

23 2. Any commercial entity or third party that performs the
24 required age verification shall not retain any identifying

1 information of the individual after access has been granted to the
2 material.

3 3. Any commercial entity that is found to have:

4 a. violated this section shall be liable to an individual
5 for damages resulting from a minor accessing the
6 material, including court costs and reasonable
7 attorney fees as ordered by the court, or

8 b. knowingly retained identifying information of the
9 individual after access has been granted to the
10 individual shall be liable to the individual for
11 damages resulting from retaining the identifying
12 information, including court costs and reasonable
13 attorney fees as ordered by the court.

14 C. 1. This section shall not apply to any bona fide news or
15 public interest broadcast, website video, report, or event and shall
16 not be construed to affect the rights of any news-gathering
17 journalist.

18 2. No Internet service provider, or its affiliates or
19 subsidiaries, search engine, or cloud service provider shall be held
20 to have violated the provisions of this section solely for providing
21 access or connection to or from a website or other information or
22 content on the Internet or a facility, system, or network not under
23 the control of the provider, including transmission, downloading,
24 intermediate storage, or access software, to the extent such

1 provider is not responsible for the creation of the content that
2 constitutes material harmful to minors.

3 SECTION 2. This act shall become effective November 1, 2024.
4

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
6 02/14/2024 - DO PASS.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24