

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3097

By: Hasenbeck

AS INTRODUCED

An Act relating to crimes and punishments; defining terms; making commercial entities liable for publishing or distributing obscene material on the Internet; providing internet and cellular service subscribers the opportunity to make certain request; requiring commercial entities to block access without charge; establishing liability provisions for violations; providing exemptions from liability; prohibiting the retention of identifying information; providing liability provisions for retaining identifying information; seek injunctive and other relief for noncompliance; authorizing and directing the Attorney General to develop and publish certain guidelines and regulations; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1040.81 of Title 21, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Child pornography" shall have the same meaning as such term is defined in Section 1024.1 of Title 21 of the Oklahoma Statutes;

1       2. "Child sexual exploitation" shall have the same meaning as  
2 such term is defined in Section 843.5 of Title 21 of the Oklahoma  
3 Statutes;

4       3. "Commercial entity" includes corporations, limited liability  
5 companies, partnerships, limited partnerships, sole proprietorships,  
6 or other legally recognized entities;

7       4. "Digitized identification card" means a data file available  
8 on any mobile device which has connectivity to the Internet through  
9 a state-approved application that allows the mobile device to  
10 download the data file from a state agency or an authorized agent of  
11 a state agency that contains all of the data elements visible on the  
12 face and back of a license or identification card and displays the  
13 current status of the license or identification card;

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

16       6. "Harmful to minors" shall have the same meaning as such term  
17 is defined in Section 1040.75 of Title 21 of the Oklahoma Statutes;

18       7. "Internet" means the international computer network of both  
19 federal and non-federal interoperable packet switched data networks;

20       8. "Minor" means any person under eighteen (18) years of age;

21       9. "News-gathering organization" means any of the following:

- 22           a. an employee of a newspaper, news publication, or news  
23 source, printed or on an online or mobile platform, of  
24 current news and public interest, while operating as  
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1 an employee as provided in this subparagraph, who can  
2 provide documentation of such employment with the  
3 newspaper, news publication, or news source, or  
4 b. an employee of a radio broadcast station, television  
5 broadcast station, cable television operator, or wire  
6 service while operating as an employee as provided in  
7 this subparagraph, who can provide documentation of  
8 such employment;

9 10. "Obscene material" shall have the same meaning as such term  
10 is defined in Section 1024.1 of Title 21 of the Oklahoma Statutes;

11 11. "Publish" means to communicate or make information  
12 available to another person or entity on a publicly available  
13 Internet website;

14 12. "Reasonable age verification methods" means verifying that  
15 the person seeking to access the material is eighteen (18) years of  
16 age or older by using any of the following methods:

- 17 a. use of a digitized information card as defined in this  
18 section,  
19 b. verification through an independent, third-party age  
20 verification service that compares the personal  
21 information entered by the individual who is seeking  
22 access to the material that is available from a  
23 commercially available database, or aggregate of  
24 databases, that is regularly used by government  
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1 agencies and businesses for the purpose of age and  
2 identity verification, or

3 c. any commercially reasonable method that relies on  
4 public or private transactional data to verify the age  
5 of the person attempting to access the material;

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

10 14. "Transactional data" means a sequence of information that  
11 documents an exchange, agreement, or transfer between an individual,  
12 commercial entity, or third party used for the purpose of satisfying  
13 a request or an event. Transactional data includes records from  
14 mortgage, education, and employment entities.

15 SECTION 2. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1040.82 of Title 21, unless  
17 there is created a duplication in numbering, reads as follows:

18 A. Any commercial entity that knowingly and intentionally  
19 publishes or distributes obscene material, or material that depicts  
20 or promotes child pornography or child sexual exploitation, on the  
21 Internet may be held liable to an individual for nominal damages,  
22 actual damages, court costs, and reasonable attorney fees as ordered  
23 by the court.  
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1       B. A commercial entity that has violated the provisions of this  
2 act in a manner that satisfies the standards for imposition of  
3 punitive damages elsewhere provided by law may be held liable to an  
4 individual for punitive damages.

5       C. Individual claims that satisfy the generally applicable  
6 standards for joinder or class action elsewhere provided by law or  
7 rules of court, as applicable, may combine their claims in a single  
8 action.

9       SECTION 3.       NEW LAW       A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1040.83 of Title 21, unless  
11 there is created a duplication in numbering, reads as follows:

12       A. Any commercial entity that knowingly and intentionally  
13 publishes or distributes material harmful to minors on the Internet  
14 from a website that contains a substantial portion of such material  
15 shall provide internet service subscribers and cellular service  
16 subscribers the opportunity, before any individual using such  
17 services may access the material, to request that access to the  
18 material by subscription service be denied.

19       B. Upon such request by an Internet service subscriber or  
20 cellular service subscriber, a commercial entity shall, without  
21 charge, block access to its website on any device seeking to access  
22 its website using the internet service or cellular service  
23 subscription of the subscriber so that a minor does not receive  
24 material harmful to minors via that subscription.

1 C. A commercial entity that fails to provide Internet service  
2 subscribers or cellular service subscribers an opportunity to  
3 request that access to the website of the commercial entity be  
4 blocked is in violation of the provisions of this act and may be  
5 held liable to the minor, by and through the parent or legal  
6 guardian of the minor, for nominal damages, actual damages, court  
7 costs, and reasonable attorney fees as ordered by the court.

8 D. A commercial entity that, after receipt of such request to  
9 block access, allows a minor to access material harmful to minors on  
10 its website is in violation of the provisions of this act and may be  
11 held liable to the minor, by and through the parent or legal  
12 guardian of the minor, for nominal damages, actual damages, court  
13 costs, and reasonable attorney fees as ordered by the court.

14 E. A commercial entity that has violated the provisions of this  
15 act in a manner that satisfies the standards for imposition of  
16 punitive damages elsewhere provided by law may be held liable to the  
17 minor, by and through the parent or legal guardian of the minor, for  
18 punitive damages.

19 F. Individual claims that satisfy the generally applicable  
20 standards for joinder or class action elsewhere provided by law or  
21 rules of court, as applicable, may combine their claims in a single  
22 action.

23 G. A commercial entity shall not be held liable for allowing  
24 access to its website if the commercial entity performs reasonable  
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1 age verification methods to verify that the individual attempting to  
2 access the material from its website is not a minor.

3 H. A commercial entity or third party that performs the  
4 required age verification shall not retain any identifying  
5 information of the individual after access has been granted to the  
6 material.

7 I. A commercial entity that is found to have knowingly retained  
8 identifying information of the individual, except as reasonably  
9 necessary to effectuate a block request under the provisions of this  
10 section, shall be liable to the individual for damages resulting  
11 from retaining the identifying information, including nominal  
12 damages, actual damages, court costs, and reasonable attorney fees  
13 as ordered by the court.

14 J. This section shall not apply to any bona fide news or public  
15 interest broadcast, website video, report, or event and shall not be  
16 construed to affect the rights of a news-gathering organization,  
17 unless the website of the organization contains a substantial  
18 portion of material harmful to minors.

19 K. No Internet service provider, affiliate, or subsidiary of an  
20 Internet service provider, search engine, or cloud service provider  
21 shall be held to have violated the provisions of this section solely  
22 for providing access or connection to or from a website or other  
23 information or content on the Internet, or a facility, system, or  
24 network not under the control of the provider, including  
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1 transmission, downloading, storing, or providing access, to the  
2 extent that such provider is not responsible for the creation of the  
3 content of the communication that constitutes obscene material or  
4 material harmful to minors.

5 SECTION 4. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1040.84 of Title 21, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. The Attorney General may seek injunctive and other equitable  
9 relief against a commercial entity that fails to comply with the  
10 provisions of this act.

11 B. The Attorney General is authorized and directed to develop  
12 and publish, consistent with the provisions of this act, guidance,  
13 or regulations as appropriate to assist commercial entities to  
14 comply with the provisions of this act.

15 SECTION 5. This act shall become effective November 1, 2024.  
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