

REFERENCE TITLE: harmful website content; age verification.

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2586

Introduced by
Representatives Dunn: Toma

AN ACT

AMENDING TITLE 18, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7; RELATING
TO INTERNET WEBSITE LIABILITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 18, Arizona Revised Statutes, is amended by adding
3 chapter 7, to read:

4 CHAPTER 7

5 PUBLISHERS AND DISTRIBUTERS OF MATERIAL HARMFUL TO MINORS

6 ARTICLE 1. GENERAL PROVISIONS

7 18-701. Age verification; publishers and distributors of
8 material harmful to minors; civil liability;
9 damages; definitions

10 A. A COMMERCIAL ENTITY THAT KNOWINGLY OR INTENTIONALLY PUBLISHES OR
11 DISTRIBUTES MATERIAL HARMFUL TO MINORS ON THE INTERNET FROM A WEBSITE THAT
12 CONTAINS A SUBSTANTIAL PORTION OF MATERIAL HARMFUL TO MINORS IS LIABLE FOR
13 DAMAGES IN A CIVIL ACTION IF THE COMMERCIAL ENTITY DOES NOT PERFORM A
14 REASONABLE AGE VERIFICATION METHOD TO VERIFY THE AGE OF AN INDIVIDUAL
15 ATTEMPTING TO ACCESS THE MATERIAL HARMFUL TO MINORS.

16 B. A COMMERCIAL ENTITY OR THIRD PARTY THAT PERFORMS THE AGE
17 VERIFICATION REQUIRED BY THIS SECTION MAY NOT RETAIN ANY OF THE
18 INDIVIDUAL'S IDENTIFYING INFORMATION AFTER ACCESS IS GRANTED TO THE
19 MATERIAL HARMFUL TO MINORS.

20 C. A COMMERCIAL ENTITY THAT VIOLATES SUBSECTION A OF THIS SECTION
21 IS LIABLE TO AN INDIVIDUAL FOR THE DAMAGES THAT RESULT FROM A MINOR
22 ACCESSING THE MATERIAL HARMFUL TO MINORS, INCLUDING COURT COSTS AND
23 REASONABLE ATTORNEY FEES.

24 D. A COMMERCIAL ENTITY OR THIRD PARTY THAT KNOWINGLY RETAINS AN
25 INDIVIDUAL'S IDENTIFYING INFORMATION AFTER ACCESS HAS BEEN GRANTED TO THE
26 INDIVIDUAL IS LIABLE TO THE INDIVIDUAL FOR DAMAGES THAT RESULT FROM
27 RETAINING THE INDIVIDUAL'S IDENTIFYING INFORMATION, INCLUDING COURT COSTS
28 AND REASONABLE ATTORNEY FEES.

29 E. THIS SECTION DOES NOT APPLY TO A BONA FIDE NEWS OR PUBLIC
30 INTEREST BROADCAST, WEBSITE VIDEO, REPORT OR EVENT AND DOES NOT AFFECT THE
31 RIGHTS OF A NEWS-GATHERING ORGANIZATION.

32 F. AN INTERNET SERVICE PROVIDER, AFFILIATE OR SUBSIDIARY OF AN
33 INTERNET SERVICE PROVIDER, SEARCH ENGINE OR CLOUD SERVICE PROVIDER DOES
34 NOT VIOLATE THIS SECTION BY SOLELY PROVIDING ACCESS OR CONNECTION TO OR
35 FROM A WEBSITE OR OTHER INFORMATION OR CONTENT ON THE INTERNET, OR A
36 FACILITY, SYSTEM OR NETWORK NOT UNDER THAT PROVIDER'S CONTROL, INCLUDING
37 TRANSMISSION, DOWNLOADING, STORING OR PROVIDING ACCESS, TO THE EXTENT THAT
38 THE PROVIDER IS NOT RESPONSIBLE FOR THE CREATION OF THE CONTENT OF THE
39 COMMUNICATION THAT CONSTITUTES MATERIAL HARMFUL TO MINORS.

40 G. FOR THE PURPOSES OF THIS SECTION:

41 1. "COMMERCIAL ENTITY" INCLUDES A CORPORATION, LIMITED LIABILITY
42 COMPANY, PARTNERSHIP, LIMITED PARTNERSHIP OR SOLE PROPRIETORSHIP OR ANY
43 OTHER LEGALLY RECOGNIZED ENTITY.

44 2. "DISTRIBUTE" MEANS TO ISSUE, SELL, GIVE, PROVIDE, DELIVER,
45 TRANSFER, TRANSMUTE, CIRCULATE OR DISSEMINATE BY ANY MEANS.

1 3. "INTERNET" HAS THE SAME MEANING PRESCRIBED IN SECTION 18-541.

2 4. "MATERIAL HARMFUL TO MINORS" MEANS ALL OF THE FOLLOWING:

3 (a) ANY MATERIAL THAT THE AVERAGE PERSON, APPLYING CONTEMPORARY
4 COMMUNITY STANDARDS, WOULD FIND, TAKING THE MATERIAL AS A WHOLE AND WITH
5 RESPECT TO MINORS, IS DESIGNED TO APPEAL TO, OR IS DESIGNED TO PANDER TO,
6 THE PRURIENT INTEREST.

7 (b) MATERIAL THAT EXPLOITS, IS DEVOTED TO OR PRINCIPALLY CONSISTS
8 OF DESCRIPTIONS OF ACTUAL, SIMULATED OR ANIMATED DISPLAY OR DEPICTION OF
9 ANY OF THE FOLLOWING, IN A MANNER PATENTLY OFFENSIVE WITH RESPECT TO
10 MINORS:

11 (i) PUBIC HAIR, AN ANUS, A VULVA, GENITALS OR A FEMALE BREAST'S
12 NIPPLE.

13 (ii) TOUCHING, CARESSING OR FONDLING OF NIPPLES, BREASTS, BUTTOCKS,
14 ANUSES OR GENITALS.

15 (iii) SEXUAL INTERCOURSE, MASTURBATION, SODOMY, BESTIALITY, ORAL
16 COPULATION, FLAGELLATION, EXCRETORY FUNCTIONS, EXHIBITIONS OR ANY OTHER
17 SEXUAL ACT.

18 (c) THE MATERIAL TAKEN AS A WHOLE LACKS SERIOUS LITERARY, ARTISTIC,
19 POLITICAL OR SCIENTIFIC VALUE FOR MINORS.

20 5. "NEWS-GATHERING ORGANIZATION" MEANS EITHER OF THE FOLLOWING:

21 (a) AN EMPLOYEE OF A NEWSPAPER, NEWS PUBLICATION OR NEWS SOURCE,
22 PRINTED OR ON AN ONLINE OR MOBILE PLATFORM, OF CURRENT NEWS AND PUBLIC
23 INTEREST, WHILE OPERATING AS AN EMPLOYEE AS PROVIDED IN THIS SUBDIVISION
24 WHO CAN PROVIDE DOCUMENTATION OF THE EMPLOYMENT.

25 (b) AN EMPLOYEE OF A RADIO BROADCAST STATION, TELEVISION BROADCAST
26 STATION, CABLE TELEVISION OPERATOR OR WIRE SERVICE WHILE OPERATING AS AN
27 EMPLOYEE AS PROVIDED IN THIS SUBDIVISION WHO CAN PROVIDE DOCUMENTATION OF
28 THE EMPLOYMENT.

29 6. "PUBLISH" MEANS TO COMMUNICATE OR MAKE INFORMATION AVAILABLE TO
30 ANOTHER PERSON OR ENTITY ON A PUBLICLY AVAILABLE INTERNET WEBSITE.

31 7. "REASONABLE AGE VERIFICATION METHOD" MEANS A PROCESS TO VERIFY
32 THAT AN INDIVIDUAL SEEKING TO ACCESS THE MATERIAL HARMFUL TO MINORS IS
33 EIGHTEEN YEARS OF AGE OR OLDER BY USING ANY OF THE FOLLOWING METHODS:

34 (a) VERIFICATION THROUGH AN INDEPENDENT, THIRD-PARTY AGE
35 VERIFICATION SERVICE THAT MEETS BOTH OF THE FOLLOWING:

36 (i) COMPARES THE PERSONAL INFORMATION ENTERED BY THE INDIVIDUAL WHO
37 IS SEEKING ACCESS TO THE MATERIAL HARMFUL TO MINORS THAT IS AVAILABLE FROM
38 A COMMERCIALY AVAILABLE DATABASE OR AGGREGATE OF DATABASES.

39 (ii) IS REGULARLY USED BY GOVERNMENT AGENCIES AND BUSINESSES TO
40 VERIFY AN INDIVIDUAL'S AGE AND IDENTITY.

41 (b) ANY COMMERCIALY REASONABLE METHOD THAT RELIES ON PUBLIC OR
42 PRIVATE TRANSACTIONAL DATA TO VERIFY THE AGE OF THE INDIVIDUAL WHO IS
43 ATTEMPTING TO ACCESS THE MATERIAL HARMFUL TO MINORS.

1 8. "SUBSTANTIAL PORTION" MEANS MORE THAN THIRTY-THREE AND ONE-THIRD
2 PERCENT OF THE TOTAL MATERIAL ON THE INTERNET WEBSITE IS MATERIAL HARMFUL
3 TO MINORS.

4 9. "TRANSACTIONAL DATA":

5 (a) MEANS A SEQUENCE OF INFORMATION THAT DOCUMENTS AN EXCHANGE,
6 AGREEMENT OR TRANSFER BETWEEN AN INDIVIDUAL, COMMERCIAL ENTITY OR THIRD
7 PARTY THAT IS USED TO SATISFY A REQUEST OR EVENT.

8 (b) INCLUDES RECORDS FROM MORTGAGE, EDUCATION AND EMPLOYMENT
9 ENTITIES.