

SENATE BILL 1643

By Pody

AN ACT to amend Tennessee Code Annotated, Title 37;  
Title 47, Chapter 18 and Title 68, relative to age  
verification for certain material.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding  
the following as a new part:

**47-18-3401. Definitions.**

As used in this part:

(1) "Commercial entity" includes a corporation, limited liability company,  
partnership, limited partnership, sole proprietorship, or other legally recognized  
business entity;

(2) "Digital identification" means 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;

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

(4) "Minor" means an individual younger than eighteen (18) years of age;

(5) "News-gathering organization" includes:

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

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

(6) "Publish" means to communicate or make information available to another person or entity on a publicly available internet website;

(7) "Sexual material harmful to minors" includes any material that:

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

(B) Exploits, is devoted to, or principally consists of descriptions of, in a manner patently offensive with respect to minors, actual, simulated, or animated displays or depictions of:

(i) A person's pubic hair, anus, or genitals, or the nipple of the female breast;

(ii) Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or

(iii) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act; and

(C) Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors; and

(8) "Transactional data" means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or

event. The term includes records from mortgage, education, and employment entities.

**47-18-3402. Publication of material harmful to minors.**

(a) A commercial entity that knowingly and intentionally publishes or distributes material on an internet website, including a social media platform, more than one-third (1/3) of which is sexual material harmful to minors, shall use reasonable age verification methods as described by § 47-18-3403 to verify that an individual attempting to access the material is eighteen (18) years of age or older.

(b) A commercial entity that performs the age verification required by subsection (a) or a third party that performs the age verification required by subsection (a) shall not retain any identifying information of the individual.

**47-18-3403. Reasonable age verification methods.**

A commercial entity that knowingly and intentionally publishes or distributes material on an internet website or a third party that performs age verification under this chapter shall require an individual to:

- (1) Provide digital identification; or
- (2) Comply with a commercial age verification system that verifies age

using:

- (A) 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.

**47-18-3404. Applicability.**

(a) This chapter does not apply to a bona fide news or public interest broadcast, website video, report, or event and must not be construed to affect the rights of a news-gathering organization.

(b) An internet service provider, or its affiliates or subsidiaries, a search engine, or a cloud service provider shall not be found to have violated this chapter 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.

**47-18-3405. Civil penalty; injunction.**

(a) If the attorney general and reporter believes that an entity is knowingly violating or has knowingly violated this part and the action is in the public interest, the attorney general and reporter may bring an action in Davidson County or in the county in which the principal place of business of the entity is located in this state to enjoin the violation, recover a civil penalty, and obtain other relief the court considers appropriate.

(b) A civil penalty imposed under this section for a violation of § 47-18-3402 or § 47-18-3403 may be in an amount of not more than:

(1) Ten thousand dollars (\$10,000) per day that the entity operates an internet website in violation of the age verification requirements of this part;

(2) Ten thousand dollars (\$10,000) per instance when the entity retains identifying information in violation of § 47-18-3402(b); and

(3) If, because of the entity's violation of the age verification requirements of this part, one (1) or more minors accesses sexual material harmful to minors, an additional amount of not more than two hundred fifty thousand dollars (\$250,000).

(c) The amount of a civil penalty under this section must be based on:

(1) The seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) The history of previous violations;

(3) The amount necessary to deter a future violation;

(4) The economic effect of a penalty on the entity on whom the penalty will be imposed;

(5) The entity's knowledge that the act constituted a violation of this chapter; and

(6) Any other matter that justice may require.

(d) The attorney general and reporter may recover reasonable and necessary attorney's fees and costs incurred in an action under this section.

SECTION 2. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act takes effect July 1, 2024, the public welfare requiring it.