

SENATE BILL 2042

By Rose

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 6 and Title 47, Chapter 18, relative to
material harmful to minors.

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:

47-18-5701.

As used in this part:

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

(2) "Digitized identification card" means a data file available on any mobile
device that has connectivity to the internet through a state-approved application that
allows the mobile device to download the data from a state agency or an authorized
agent of a state agency that contains all of the data elements visible on the front and
back of a license or identification card and displays the current status of the license or
identification card;

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

(4) "Harmful to minors" has the same meaning as defined in § 39-17-901;

(5) "Internet" has the same meaning as defined in § 47-18-402;

(6) "Minor" has the same meaning as defined in § 1-3-105; and

(7) "News-gathering organization" means:

(A) An employee of a newspaper, news publication, or news source, whether printed or on an online or mobile platform, of current news and public interest while performing an official job function who can provide documentation of employment; or

(B) An employee of a radio broadcast station, television broadcast station, cable television operator, or wire service while performing an official job function who can provide documentation of employment;

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

(9) "Reasonable age verification methods" means verifying that the person seeking access to material is not a minor by using any of the following methods:

(A) A digitized information card;

(B) Verification through an independent third-party age verification service that compares the personal information entered by the individual who is seeking access with material that is available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for the purpose of age and identity verification; or

(C) A commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material;

(10) "Subscriber" means a person or business that has entered into an agreement with an internet or cellular service provider to gain access to the internet, including wirelessly, for residential access or to provide public access through a commercial entity;

(11) "Substantial portion" means more than thirty-three and one-third percent (33 1/3%) of total material on a website; and

(12) "Transactional data" means:

(A) 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; and

(B) Includes records from mortgage, education, and employment entities.

47-18-5702.

(a) A commercial entity that knowingly publishes or distributes material harmful to minors from a website containing a substantial portion of material that is harmful to minors shall provide subscribers the opportunity, before accessing the material, to request that the commercial entity block website access through the subscriber's internet or cellular service subscription, using a commercially reasonable method.

(b) Upon request by a subscriber, a commercial entity shall, without charge, block access to the entity's website on any device seeking to access the entity's website using the subscriber's internet or cellular service subscription so that a minor does not receive material that is harmful to minors when using the subscriber's subscription.

(c) A commercial entity may allow a subscriber whose adult age has been verified to rescind a prior request to block access to the entity's website.

(d) A commercial entity that fails to provide subscribers with an opportunity to request that access to the entity's website be blocked is in violation of this section, and may be held liable to the minor, by and through the minor's parent or legal guardian, for actual damages, court costs, and reasonable attorney fees.

(e) A commercial entity that, after receipt of a subscriber's request to block access, allows a minor to access material harmful to minors on the entity's website

through the subscriber's internet or cellular service subscription may be held liable to the minor, by and through the minor's parent or legal guardian, for nominal damages; actual damages; punitive damages, as provided in § 29-39-104, if appropriate; court costs; and reasonable attorney fees.

(f) A commercial entity is not liable under this section for allowing access to the entity's website if the entity uses reasonable age verification methods to verify that the individual attempting to access the material on the entity's website is not a minor.

(g)

(1) A commercial entity or third party that uses reasonable age verification methods shall not retain identifying information of the individual after granting access to the material.

(2) A commercial entity that knowingly retains identifying information of an individual, except as necessary to effectuate a block request pursuant to this section, is liable to the individual for any damages resulting from retaining the information, including court costs and attorney fees as ordered by the court.

(h) This section does not apply to news or public interest broadcasts, website videos, reports, or events and does not affect the rights of a news-gathering organization, unless the organization's website contains a substantial portion of material harmful to minors.

(i) An internet service provider, affiliate, or subsidiary of an internet service provider, search engine, or cloud service provider is not in violation of this section for providing access or connection to or from a website or other information or content on the internet, or a facility, system, or network not under that provider's control, including transmissions, downloading, storing, or providing access, to the extent that the provider

is not responsible for the creation of the content of the communication that creates material harmful to minors.

47-18-5703.

(a) The attorney general and reporter may seek injunctive relief and other equitable relief against a commercial entity that fails to comply with the provisions of this part.

(b) The attorney general and reporter may issue guidance to assist commercial entities in complying with this part.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

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