

By: Representative Arnold

To: Interstate Cooperation;
Judiciary B

HOUSE BILL NO. 1120

1 AN ACT TO AUTHORIZE THE STATE OF MISSISSIPPI TO ENTER INTO AN
2 INTERSTATE COMPACT WITH SOUTHERN STATES FOR THE PURPOSE OF
3 PROHIBITING THE ADVERTISEMENT OF OBSCENE AND PORNOGRAPHIC CONTENT
4 ON SOCIAL MEDIA PLATFORMS; TO ESTABLISH THE INTERSTATE COMMISSION
5 ON OBSCENITIES PROHIBITION AND PRESCRIBE ITS POWERS AND DUTIES;
6 AND FOR RELATED PURPOSES.

7 **SECTION 1.** The following compact of the southern states for
8 the purpose of prohibiting the advertisement of obscene and
9 pornographic content on social media platforms accessed in the
10 southern states, and the same is, hereby ratified and approved:

11 WHEREAS, Federal law prohibits obscene, indecent and profane
12 content from being broadcast on the radio or TV, and now in the
13 era of vast expanse of social media, it is necessary to extend
14 that prohibition on such content to all social media platforms;
15 and

16 WHEREAS, in *Jacobellis v. Ohio*, 378 U.S. 184 (1964), the
17 Supreme Court's 1964 landmark case on obscenity and pornography,
18 Justice Potter Stewart famously wrote: "I know it when I see it,"
19 and that case still influences FCC rules today, and complaints



20 from the public about broadcasting objectionable content drive the
21 enforcement of those rules; and

22 WHEREAS, in deciding what's obscene, indecent or profane, it
23 is important to note that each type of content has a distinct
24 definition; and

25 WHEREAS, obscene content does not have protection by the
26 First Amendment, and as such in order for content to be ruled
27 obscene, it must meet a three-pronged test established by the
28 Supreme Court in *Miller v. California*, 413 U.S. 15 (1973), which
29 provide that it must: (i) appeal to an average person's prurient
30 interest; (ii) depict or describe sexual conduct in a "patently
31 offensive" way; and (iii) taken as a whole, lack serious literary,
32 artistic, political or scientific value; and

33 WHEREAS, indecent content portrays sexual or excretory organs
34 or activities in a way that is patently offensive but does not
35 meet the three-prong test for obscenity; and

36 WHEREAS, profane content includes "grossly offensive"
37 language that is considered a public nuisance; and

38 WHEREAS, factors in determining how FCC rules apply include
39 the specific nature of the content, the time of day it was
40 broadcast and the context in which the broadcast took place; and

41 WHEREAS, broadcasting obscene content is prohibited by law at
42 all times of the day, while indecent and profane content are
43 prohibited on broadcast TV and radio between 6 a.m. and 10 p.m.,



44 when there is a reasonable risk that children may be in the
45 audience; and

46 WHEREAS, each day, countless people are exposed to sexually
47 explicit content through a wide range of media, often unaware of
48 the health risks posed by such material; and

49 WHEREAS, as it perpetuates a sexually toxic environment,
50 pornography is a public health hazard leading to a broad spectrum
51 of individual, public and societal harms, and efforts to prevent
52 pornography exposure and addiction, to educate individuals and
53 families concerning its harms, and to develop recovery programs
54 must be addressed systemically in ways that hold broader
55 influences accountable; and

56 WHEREAS, overcoming the substantial negative impacts of
57 obscene and pornography material through all media outlets, but
58 particularly, social media platforms, is beyond the capability of
59 the afflicted individual to address alone, and its ubiquity has
60 resulted in a host of societal problems and potentially negative
61 health effects, which makes it of paramount importance that our
62 leaders tackle this issue; NOW, THEREFORE,

63 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

64 **ARTICLE I**

65 **PURPOSE**

66 In consideration of the mutual agreements, covenants and
67 obligations assumed by the respective states who are parties
68 hereto (hereinafter referred to as "states"), the said several



69 states do hereby form a geographical district or region consisting
70 of the areas lying within the boundaries of the contracting states
71 which, for the purposes of this compact, to constitute a
72 prohibition on the advertisement of obscene and pornographic
73 content on social media platforms, wherein the states which are
74 parties hereto:

75 (a) Establish ongoing duties for internet service
76 providers and social media platforms that have been interjected
77 into the stream of interstate commerce by virtue of being accessed
78 by any citizen within the compacting states;

79 (b) Require internet service providers and social media
80 platforms to actively filter and block by default websites and
81 advertisements that are known to facilitate the display of obscene
82 or pornographic material of any kind and nature, and any other
83 sexually explicit material regulated under the Federal Law on
84 Obscenity (18 USCS Section 1460, et seq.) and not protected by the
85 First Amendment to the United States Constitution; and

86 (c) Provide that blocking capability may be disabled by
87 the individual access to activate or deactivate tracking features
88 in his or her privacy setting on any social media platform.

89 **ARTICLE II**

90 **THE COMMISSION**

91 The states do further hereby establish and create a joint
92 commission which shall be known as the Interstate Commission on
93 Obscene Social Media Advertisement (hereinafter referred to as the



94 "commission"), the members of which commission shall consist of
95 the governor of each state, who shall serve in an ex officio
96 capacity, and four (4) additional citizens of each state to be
97 appointed by the governor thereof, at least one (1) of whom shall
98 be a member of the legislature of that state. The governor shall
99 continue as a member of the commission during his tenure of office
100 as governor of the state, but the members of the commission
101 appointed by the governor shall hold office for a period of four
102 (4) years, except that in the original appointment one (1)
103 commissioner so appointed by the governor shall be designated at
104 the time of his appointment to serve an initial term of three (3)
105 years, but thereafter his successor shall serve the full term of
106 four (4) years. Vacancies on the commission caused by death,
107 resignation, refusal or inability to serve, shall be filled by
108 appointment by the governor for the unexpired portion of the term.
109 The officers of the commission shall be a chairman, a vice
110 chairman, a secretary, a treasurer and such additional officers as
111 may be created by the commission from time to time.

112 **ARTICLE III**

113 **POWERS AND DUTIES OF THE COMMISSION**

114 A. It shall be the duty of the commission to submit plans
115 and recommendations to the states from time to time for their
116 approval and adoption by appropriate legislative action for
117 prohibiting the advertisement of obscene and pornographic content
118 on social media platforms, which such content is regulated under



119 the Federal Law on Obscenity (18 USCS Section 1460, et seq.) and
120 is not protected by the First Amendment to the United States
121 Constitution, within the geographical limits of the regional area
122 of the states and for such other related purposes, as they may
123 deem and determine to be proper, necessary or advisable.

124 B. In addition to the power and authority heretofore
125 granted, the commission shall have the power to enter into such
126 agreements or arrangements with any of the states and with any
127 institutions or agencies, as may be required in the judgment of
128 the commission, to provide adequate services for the benefit of
129 the citizens of the respective states residing within the region.

130 C. The commission shall have such additional and general
131 power and authority as may be vested in it by the states from time
132 to time by legislative enactments of the said states.

133 D. Any two (2) or more states which are parties of this
134 compact shall have the right to enter into supplemental agreements
135 for the benefit of citizens residing within an area which
136 constitutes a portion of the general region herein created, such
137 agreements to be governed exclusively by such states and to be
138 controlled exclusively by the members of the commission
139 representing such states, provided such agreement is submitted to
140 and approved by the commission prior to the establishment of such
141 agreements.

142 **ARTICLE VI**

143 **ELIGIBLE PARTIES AND ENTRY INTO FORCE**



144 This compact shall not take effect or be binding upon any
145 state unless and until it shall be approved by proper legislative
146 action of as many as six (6) or more of the states whose governors
147 have subscribed hereto within a period of eighteen (18) months
148 from the date hereof. When and if six (6) or more states shall
149 have given legislative approval to this compact within said
150 eighteen (18) months period, it shall be and become binding upon
151 such six (6) or more states sixty (60) days after the date of
152 legislative approval by the sixth state and the governors of such
153 six (6) or more states shall name the members of the commission
154 from their states as prescribed in paragraph (a) of the section,
155 and the commission shall then meet on call of the governor of any
156 state approving this compact, at which time the commission shall
157 elect officers, adopt bylaws, appoint committees and otherwise
158 fully organize. Other states whose names are subscribed hereto
159 shall thereafter become parties hereto upon approval of this
160 compact by legislative action within two (2) years from the date
161 hereof, upon such conditions as may be agreed upon at the time.

162 **ARTICLE V**

163 **WITHDRAWAL, DEFAULT, AND TERMINATION**

164 A. After becoming effective this compact shall thereafter
165 continue without limitation of time. However, it may be
166 terminated at any time by unanimous action of the states and
167 provided, further, that any state may withdraw from this compact
168 if such withdrawal is approved by its legislature, such withdrawal



169 to become effective two (2) years after written notice thereof to
170 the commission accompanied by a certified copy of the requisite
171 legislative action, but such withdrawal shall not relieve the
172 withdrawing state from its obligations hereunder accruing up to
173 the effective date of such withdrawal. Any state so withdrawing
174 shall ipso facto cease to have any claim to or ownership of any of
175 the property held or vested in the commission or to any of the
176 funds of the commission held under the terms of this compact.

177 B. If any state shall at any time become in default in the
178 performance of any of its obligations assumed herein or with
179 respect to any obligation imposed upon said state as authorized by
180 and in compliance with the terms and provisions of this compact,
181 all rights, privileges and benefits of such defaulting state, its
182 members on the commission and its citizens shall ipso facto be and
183 become suspended from and after the date of such default. Unless
184 such default shall be remedied and made good within a period of
185 one (1) year immediately following the date of such default this
186 compact may be terminated with respect to such defaulting state by
187 an affirmative vote of three-fourths (3/4) of the members of the
188 commission (exclusive of the members representing the state in
189 default), from and after which time such state shall cease to be a
190 party to this compact and shall have no further claim to or
191 ownership of any of the property held by or vested in the
192 commission or to any of the funds of the commission held under the
193 terms of this compact, but such termination shall in no manner



194 release such defaulting state from any accrued obligation or
195 otherwise affect this compact or the rights, duties, privileges or
196 obligations of the remaining states thereunder.

197 C. In witness whereof this compact has been approved and
198 signed by the governors of the several states, subject to the
199 approval of their respective legislatures in the manner prescribed
200 in this section, as of the _____ day of _____, 2020.

201	State of Tennessee,	State of West Virginia,
202	By _____	By _____
203	Governor	Governor
204	State of Georgia,	State of Arkansas,
205	By _____	By _____
206	Governor	Governor
207	State of Louisiana,	State of Alabama,
208	By _____	By _____
209	Governor	Governor
210	State of Mississippi,	Commonwealth of Kentucky,
211	By _____	By _____
212	Governor	Governor

213 State of Oklahoma,
214 By _____
215 Governor

216 **SECTION 2.** This act shall take effect and be in force from
217 and after July 1, 2020.

