

By: Senator(s) Boyd, Williams, Hill,
Branning, Parker

To: Judiciary, Division B

SENATE BILL NO. 2346

1 AN ACT TO REQUIRE ANY COMMERCIAL ENTITY THAT KNOWINGLY OR
 2 INTENTIONALLY PUBLISHES OR DISTRIBUTES MATERIAL HARMFUL TO MINORS
 3 ON THE INTERNET FROM A WEBSITE THAT CONTAINS A SUBSTANTIAL PORTION
 4 OF SUCH MATERIAL SHALL BE HELD LIABLE IF THE ENTITY FAILS TO
 5 PERFORM REASONABLE AGE-VERIFICATION METHODS TO VERIFY THE AGE OF
 6 INDIVIDUALS ATTEMPTING TO ACCESS THE MATERIAL; TO STATE
 7 LEGISLATIVE INTENT AND FINDINGS; TO DEFINE TERMS; TO PROVIDE THAT
 8 THIS ACT SHALL NOT APPLY TO BONA FIDE NEWS AND SHALL NOT AFFECT
 9 THE RIGHTS OF ANY NEWS-GATHERING ORGANIZATIONS; TO EXEMPT INTERNET
 10 SERVICE PROVIDERS FROM LIABILITY UNDER THE ACT; AND FOR RELATED
 11 PURPOSES.

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

13 **SECTION 1.** (1) The Legislature finds that:

14 (a) Due to advances in technology, the universal
 15 availability of the internet, and limited age verification
 16 requirements, minors are exposed to pornography earlier in age.

17 (b) Pornography contributes to the hyper-sexualization
 18 of teens and prepubescent children and may lead to low
 19 self-esteem, body image disorders, an increase in problematic
 20 sexual activity at younger ages, and increased desire among
 21 adolescents to engage in risky sexual behavior.



22 (c) Pornography may also impact brain development and
23 functioning, contribute to emotional and medical illnesses, shape
24 deviant sexual arousal, and lead to difficulty in forming or
25 maintaining positive, intimate relationships, as well as promoting
26 problematic or harmful sexual behaviors and addiction.

27 (2) Therefore, it is the intent of the Legislature to
28 provide a civil remedy for damages against commercial entities who
29 distribute material harmful to minors without performing a
30 reasonable age verification to verify the age of individuals
31 attempting to access the material.

32 **SECTION 2.** As used in this act, the following terms shall
33 have the meaning herein ascribed unless the context clearly
34 requires otherwise:

35 (a) "Commercial entity" includes corporations, limited
36 liability companies, partnerships, limited partnerships, sole
37 proprietorships, or other legally recognized entities.

38 (b) "Distribute" means to issue, sell, give, provide,
39 deliver, transfer, transmute, circulate, or disseminate by any
40 means.

41 (c) "Internet" means the international computer network
42 of both federal and non-federal interoperable packet switched data
43 networks.

44 (d) "Material harmful to minors" is defined as all of
45 the following:



46 (i) Any material that the average person, applying
47 contemporary community standards would find, taking the material
48 as a whole and with respect to minors, is designed to appeal to,
49 or is designed to pander to, the prurient interest.

50 (ii) Any of the following material that exploits,
51 is devoted to, or principally consists of descriptions of actual,
52 simulated, or animated display or depiction of any of the
53 following, in a manner patently offensive with respect to minors:

54 1. Pubic hair, anus, vulva, genitals, or
55 nipple of the female breast.

56 2. Touching, caressing, or fondling of
57 nipples, breasts, buttocks, anuses, or genitals.

58 3. Sexual intercourse, masturbation, sodomy,
59 bestiality, oral copulation, flagellation, excretory functions,
60 exhibitions, or any other sexual act.

61 (iii) The material taken as a whole lacks serious
62 literary, artistic, political, or scientific value for minors.

63 (e) "Minor" means any person under the age of eighteen
64 years.

65 (f) "News-gathering organization" means any of the
66 following:

67 (i) An employee of a newspaper, news publication,
68 or news source, printed or on an online or mobile platform, of
69 current news and public interest, while operating as an employee
70 as provided in this subparagraph, who can provide documentation of



71 such employment with the newspaper, news publication, or news
72 source.

73 (ii) An employee of a radio broadcast station,
74 television broadcast station, cable television operator, or wire
75 service while operating as an employee as provided in this
76 subparagraph, who can provide documentation of such employment.

77 (g) "Publish" means to communicate or make information
78 available to another person or entity on a publicly available
79 internet website.

80 (h) "Reasonable age verification methods" include
81 verifying that the person seeking to access the material is
82 eighteen (18) years of age or older requiring the person
83 attempting to access the material to comply with a commercial
84 age-verification system that verifies in one or more of the
85 following ways:

86 (i) Government-issued identification; or

87 (ii) Any commercially reasonable method that
88 relies on public or private transactional data to verify the age
89 of the person attempting to access the information is at least
90 eighteen (18) years of age or older.

91 (i) "Substantial portion" means more than thirty-three
92 and one-third percent (33 1/3%) of total material on a website,
93 which meets the definition of "material harmful to minors" as
94 defined by this section.



95 (j) "Transactional data" means a sequence of
96 information that documents an exchange, agreement, or transfer
97 between an individual, commercial entity, or third party used for
98 the purpose of satisfying a request or event. Transactional data
99 can include, but is not limited to, records from mortgage,
100 education, and employment entities.

101 **SECTION 3.** (1) Any commercial entity that knowingly and
102 intentionally publishes or distributes material harmful to minors
103 on the internet from a website that contains a substantial portion
104 of such material shall be held liable if the entity fails to
105 perform reasonable age-verification methods to verify the age of
106 individuals attempting to access the material.

107 (2) Any commercial entity or third party that performs the
108 required age verification shall not retain any identifying
109 information of the individual after access has been granted to the
110 material.

111 (3) (a) Any commercial entity that is found to have
112 violated this section shall be liable to an individual for damages
113 resulting from a minor's accessing the material, including court
114 costs and reasonable attorney fees as ordered by the court.

115 (b) A commercial entity that is found to have knowingly
116 retained identifying information of the individual after access
117 has been granted to the individual shall be liable to the
118 individual for damages resulting from retaining the identifying
119 information, including court costs and reasonable attorney fees as



120 ordered by the court.

121 **SECTION 4.** (1) This Section shall not apply to any bona
122 fide news or public interest broadcast, website video, report, or
123 event and shall not be construed to affect the rights of any
124 news-gathering organizations.

125 (2) No internet service provider, or its affiliates or
126 subsidiaries, search engine, or cloud service provider shall be
127 held to have violated the provisions of this section solely for
128 providing access or connection to or from a website or other
129 information or content on the internet or a facility, system, or
130 network not under that provider's control, including transmission,
131 downloading, intermediate storage, access software, or other to
132 the extent such provider is not responsible for the creation of
133 the content of the communication that constitutes material harmful
134 to minors.

135 **SECTION 5.** This act shall take effect and be in force from
136 and after July 1, 2023.

