

By: Senator(s) McDaniel

To: Judiciary, Division B

SENATE BILL NO. 2886

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 years of age or older requiring the person attempting to  
83 access the material to comply with a commercial age verification  
84 system that verifies in one or more of the following ways:

85 (i) Government-issued identification; or

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

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

94 (j) "Transactional data" means a sequence of  
95 information that documents an exchange, agreement, or transfer



96 between an individual, commercial entity, or third party used for  
97 the purpose of satisfying a request or event. Transactional data  
98 can include but is not limited to records from mortgage,  
99 education, and employment entities.

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

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

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

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

120        **SECTION 4.** (1) This Section shall not apply to any bona



121 fide news or public interest broadcast, website video, report, or  
122 event and shall not be construed to affect the rights of any  
123 news-gathering organizations.

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

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

