



Sen. Erica Harriss

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10400SB3945sam001

LRB104 18625 SPS 35066 a

1 AMENDMENT TO SENATE BILL 3945

2 AMENDMENT NO. _____. Amend Senate Bill 3945 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Adult
5 Content Age Verification Act.

6 Section 5. Definitions. As used in this Act:

7 "Commercial entity" means a corporation, limited liability
8 company, partnership, limited partnership, sole
9 proprietorship, or another legally recognized entity.

10 "Distribute" means to issue, sell, give, provide, deliver,
11 transfer, transmute, circulate, or disseminate by any means.

12 "Internet" means the international computer network of
13 both federal and nonfederal interoperable packet switched data
14 networks.

15 "Material harmful to minors" means all of the following:

16 (1) Material that the average person, applying

1 contemporary community standards, would find, taking the
2 material as a whole and with respect to minors, is
3 designed to appeal to, or is designed to pander to, the
4 prurient interest.

5 (2) Any of the following material that exploits, is
6 devoted to, or principally consists of descriptions of
7 actual, simulated, or animated displays or depictions of
8 any of the following, in a manner patently offensive with
9 respect to minors:

10 (A) Pubic hair, anus, vulva, genitals, or a
11 nipple.

12 (B) Touching, caressing, or fondling of nipples or
13 breasts, buttocks, anuses, or genitals.

14 (C) Sexual intercourse, masturbation, sodomy,
15 bestiality, oral copulation, flagellation, excretory
16 functions, exhibitions, or any other sexual act.

17 (3) Material, taken as a whole, that lacks serious
18 literary, artistic, political, or scientific value for
19 minors.

20 "Minor" means any person under the age of 18.

21 "News-gathering organization" means any of the following:

22 (A) An employee of a newspaper, news publication,
23 or news source, printed or on an online or mobile
24 platform, of current news and public interest, while
25 operating as an employee as provided in this
26 paragraph, who can provide documentation of employment

1 with the newspaper, news publication, or news source.

2 (B) A radio broadcast station, television
3 broadcast station, cable television operator, wire
4 service, or an employee of a station, operator, or
5 service.

6 "Publish" means to communicate or make information
7 available to another person or entity on a publicly available
8 website.

9 "Reasonable age verification methods" means verifying that
10 a person seeking to access the material is 18 years of age or
11 older by requiring the person attempting to access the
12 material to comply with a commercial age verification system
13 that verifies in any of the following ways:

14 (1) Government-issued identification.

15 (2) Any commercially reasonable method that relies on
16 public or private transactional data to verify that the
17 person attempting to access the information is at least 18
18 years of age or older.

19 "Substantial portion" means more than 33 1/3% of total
20 material on a website is material harmful to minors.

21 "Transactional data" means a sequence of information that
22 documents an exchange, agreement, or transfer between an
23 individual, commercial entity, or third party used for the
24 purpose of satisfying a request or event. "Transactional data"
25 includes, but is not limited to, records from mortgage,
26 education, and employment entities.

1 Section 10. Publishing or distributing material harmful to
2 minors; age verification.

3 (a) Any commercial entity that knowingly and intentionally
4 publishes or distributes a substantial portion of material
5 harmful to minors on a website is subject to civil penalties as
6 provided in this Act if the entity fails to perform reasonable
7 age verification methods to verify the age of an individual
8 attempting to access the material harmful to minors.

9 (b) The Attorney General may investigate an alleged
10 violation of this Act and initiate a civil action for an
11 injunction and to assess civil penalties. Prior to initiating
12 a civil action, the Attorney General shall provide the
13 commercial entity with not less than 30 days to comply with
14 this Section.

15 Section 15. Penalties.

16 (a) If a court finds that a commercial entity violated
17 this Act, the court may assess a civil penalty in an amount of
18 not more than \$5,000 for each day of violation. The Attorney
19 General must deposit the civil penalty into the Cyber
20 Exploitation of Children Fund, a special fund that is created
21 in the State treasury, and, subject to funding from civil
22 penalties or appropriation and as directed by the Attorney
23 General, shall be expended for the investigation of
24 cybercrimes involving the exploitation of children and for no

1 other purpose. In addition to the remedies provided in this
2 Section, the Attorney General may request and the court may
3 impose an additional civil penalty not to exceed \$10,000 for
4 each violation of this Act against any commercial entity found
5 by the court to have knowingly failed to perform reasonable
6 age verification methods to verify the age of individuals
7 attempting to access the material. The additional civil
8 penalty shall also be deposited into the Cyber Exploitation of
9 Children Fund.

10 (b) Each violation may be treated as a separate violation
11 or may be combined into one violation at the option of the
12 Attorney General.

13 (c) If a court finds that a commercial entity violated
14 this Act, the court may assess against the commercial entity
15 all costs, expenses, and fees related to investigations and
16 proceedings associated with the violation, including
17 attorney's fees.

18 Section 20. Exceptions.

19 (a) This Act does not apply to any bona fide news or public
20 interest broadcast, website, video, report, or event and shall
21 not be construed to affect the rights of any news-gathering
22 organization.

23 (b) No Internet service provider, or its affiliates or
24 subsidiaries, search engine, or cloud service provider shall
25 be held to have violated the provisions of this Act solely for

1 providing access or connection to or from a website or other
2 information or content on the Internet or a facility, system,
3 or network not under the control of that provider, including
4 transmission, downloading, intermediate storage, access
5 software, or other related capabilities, to the extent the
6 provider is not responsible for the creation of the content of
7 the communication that constitutes material harmful to minors.

8 Section 25. The State Finance Act is amended by adding
9 Section 5.1038 as follows:

10 (30 ILCS 105/5.1038 new)

11 Sec. 5.1038. The Cyber Exploitation of Children Fund."