



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2590

Introduced 10/18/2023, by Sen. Erica Harriss and Sally J. Turner

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.990 new

Creates the Adult Content Age Verification Act. Defines terms. Provides that a commercial entity that knowingly and intentionally publishes or distributes material harmful to minors on the Internet from a website that contains a substantial portion of material harmful to minors shall be subject to civil penalties if the entity fails to perform reasonable age verification methods to verify the age of individuals attempting to access the material. Provides that the Attorney General may investigate alleged violations and initiate a civil action for an injunction and to assess civil penalties. Provides that the civil penalties shall be deposited into the Cyber Exploitation of Children Fund, which shall be expended for the investigation of cybercrimes involving the exploitation of children and for no other purpose. Amends the State Finance Act to make a conforming change.

LRB103 34076 SPS 63893 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
17 contemporary community standards, would find, taking the
18 material as a whole and with respect to minors, is
19 designed to appeal to, or is designed to pander to, the
20 prurient interest.

21 (2) Any of the following material that exploits, is
22 devoted to, or principally consists of descriptions of
23 actual, simulated, or animated displays or depictions of

1 any of the following, in a manner patently offensive with
2 respect to minors:

3 (A) Pubic hair, anus, vulva, genitals, or a female
4 nipple.

5 (B) Touching, caressing, or fondling of nipples or
6 breasts of females, buttocks, anuses, or genitals.

7 (C) Sexual intercourse, masturbation, sodomy,
8 bestiality, oral copulation, flagellation, excretory
9 functions, exhibitions, or any other sexual act.

10 (3) Material, taken as a whole, that lacks serious
11 literary, artistic, political, or scientific value for
12 minors.

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

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

15 (A) An employee of a newspaper, news publication,
16 or news source, printed or on an online or mobile
17 platform, of current news and public interest, while
18 operating as an employee as provided in this
19 paragraph, who can provide documentation of employment
20 with the newspaper, news publication, or news source.

21 (B) A radio broadcast station, television
22 broadcast station, cable television operator, wire
23 service, or an employee of a station, operator, or
24 service.

25 "Publish" means to communicate or make information
26 available to another person or entity on a publicly available

1 website.

2 "Reasonable age verification methods" means verifying that
3 a person seeking to access the material is 18 years of age or
4 older by requiring the person attempting to access the
5 material to comply with a commercial age verification system
6 that verifies in any of the following ways:

7 (1) Government-issued identification.

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

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

14 "Transactional data" means a sequence of information that
15 documents an exchange, agreement, or transfer between an
16 individual, commercial entity, or third party used for the
17 purpose of satisfying a request or event. "Transactional data"
18 includes, but is not limited to, records from mortgage,
19 education, and employment entities.

20 Section 10. Publishing or distributing material harmful to
21 minors; age verification.

22 (a) Any commercial entity that knowingly and intentionally
23 publishes or distributes a substantial portion of material
24 harmful to minors on a website is subject to civil penalties as
25 provided in this Act if the entity fails to perform reasonable

1 age verification methods to verify the age of an individual
2 attempting to access the material harmful to minors.

3 (b) The Attorney General may investigate an alleged
4 violation of this Act and initiate a civil action for an
5 injunction and to assess civil penalties. Prior to initiating
6 a civil action, the Attorney General shall provide the
7 commercial entity with not less than 30 days to comply with
8 this Section.

9 Section 15. Penalties.

10 (a) If a court finds that a commercial entity violated
11 this Act, the court may assess a civil penalty in an amount of
12 not more than \$5,000 for each day of violation. The Attorney
13 General must deposit the civil penalty into the Cyber
14 Exploitation of Children Fund, a special fund that is created
15 in the State treasury, and, subject to funding from civil
16 penalties or appropriation and as directed by the Secretary of
17 State, shall be expended for the investigation of cybercrimes
18 involving the exploitation of children and for no other
19 purpose. In addition to the remedies provided in this Section,
20 the Attorney General may request and the court may impose an
21 additional civil penalty not to exceed \$10,000 for each
22 violation of this Act against any commercial entity found by
23 the court to have knowingly failed to perform reasonable age
24 verification methods to verify the age of individuals
25 attempting to access the material. The additional civil

1 penalty shall also be deposited into the Cyber Exploitation of
2 Children Fund.

3 (b) Each violation may be treated as a separate violation
4 or may be combined into one violation at the option of the
5 Attorney General.

6 (c) If a court finds that a commercial entity violated
7 this Act, the court may assess against the commercial entity
8 all costs, expenses, and fees related to investigations and
9 proceedings associated with the violation, including
10 attorney's fees.

11 Section 20. Exceptions.

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

16 (b) No Internet service provider, or its affiliates or
17 subsidiaries, search engine, or cloud service provider shall
18 be held to have violated the provisions of this Act solely for
19 providing access or connection to or from a website or other
20 information or content on the Internet or a facility, system,
21 or network not under the control of that provider, including
22 transmission, downloading, intermediate storage, access
23 software, or other related capabilities, to the extent the
24 provider is not responsible for the creation of the content of
25 the communication that constitutes material harmful to minors.

1 Section 99. The State Finance Act is amended by adding
2 Section 5.990 as follows:

3 (30 ILCS 105/5.990 new)

4 Sec. 5.990. The Cyber Exploitation of Children Fund.