

HB393 INTRODUCED



1 HB393
2 Z0XBKR-1
3 By Representative Mooney
4 RFD: Judiciary
5 First Read: 02-Apr-24



SYNOPSIS:

This bill would prohibit the distribution of material harmful to minors under 18 years of age and would require the use of age-verification procedures to access the material.

This bill would also provide that a distributor of material harmful to minors that performs any required online age verification may not retain any personally identifying information of the individual accessing the material.

A BILL
TO BE ENTITLED
AN ACT

Relating to consumer protection; to provide prohibitions on the online distribution of material harmful to minors; to provide registration and age-verification requirements to access such material; and to prohibit the retention of certain personally identifying information.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the following terms have the following meanings:



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(1) COMMERCIAL ENTITY. The term includes corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized entities.

(2) DISTRIBUTE. To issue, sell, give, provide, deliver, transfer, circulate, or disseminate online.

(3) DIVISION. The Consumer Protection Division of the Office of the Attorney General.

(4) HARMFUL TO MINORS. The term as defined under Section 13A-12-200.1, Code of Alabama 1975.

(5) MINOR. An individual under 18 years of age.

(6) NEWS-GATHERING ORGANIZATION. Any of the following:

a. A newspaper, news publication, or news source, printed or on an online platform, of current news and public interest.

b. A radio broadcast station, television broadcast station, or cable television operator.

(7) PUBLISH. To communicate or make information available to another person on a publicly available Internet website.

(8) REASONABLE AGE-VERIFICATION METHODS. A method of verifying an individual's age by either of the following:

a. Government-issued photo identification.

b. A commercial age-verification system that verifies age in any commercially reasonable method that relies on public or private transactional data to verify that the age of the individual attempting to access the information is at least 18 years of age or older.



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(9) SMART PHONE. An electronic device that combines a cellular phone with a handheld computer, typically offering Internet access through a browser or search engine that has data storage and text and email capabilities.

(10) SUBSTANTIAL PORTION. More than 33 1/3 percent of total material on a website.

(11) TRANSACTIONAL DATA. A sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or event. The term includes, but is not limited to, records from mortgage, education, and employment entities.

Section 2. (a) Any 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 held liable if the entity fails to perform reasonable age-verification methods to verify the age of individuals attempting to access the material.

(b) A commercial entity that is found to have violated this section shall be liable to an individual for actual and punitive damage resulting from a minor accessing the material harmful to minors, including court costs and reasonable attorney fees as ordered by the court.

(c) The Office of the Attorney General may recover damages on behalf of an individual against a commercial entity that violates this section.

Section 3. (a) Any commercial entity or third party



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85 that performs the required age-verification under this act
86 shall not retain any personally identifying information of the
87 individual after access has been granted to the material.

88 (b) A commercial entity that is found to have knowingly
89 retained identifying information of the individual, as
90 prohibited in subsection (a), shall be liable to the
91 individual for damages resulting from retaining the
92 identifying information, including court costs and reasonable
93 attorney fees as ordered by the court.

94 Section 4. Nothing in this act shall apply to a bona
95 fide broadcast, website video, report, or event of a
96 news-gathering organization and shall not be construed to
97 affect the rights of any news-gathering organization.

98 Section 5. No Internet service provider, or its
99 affiliates or subsidiaries, search engine, or cloud service
100 provider shall be held to have violated this act solely for
101 providing access or connection to or from a website or other
102 information or content on the Internet or a facility, system,
103 or network not under that provider's control, including
104 transmission, downloading, intermediate storage, or access
105 software to the extent the provider is not responsible for the
106 creation of the content of the communication that constitutes
107 material harmful to minors.

108 Section 6. This act shall become effective October 1,
109 2024.