

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3097 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Toni Hasenbeck

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 3097

By: Hasenback

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to crimes and punishments; defining terms; making commercial entities liable for publishing or distributing obscene material; providing internet and cellular service subscribers the opportunity to make certain request; requiring commercial entities to block access without charge; establishing liability provisions for violations; providing exemptions from liability; prohibiting the retention of identifying information; providing liability provisions for retaining identifying information; seek injunctive and other relief for noncompliance; authorizing and directing the Attorney General to develop and publish certain guidelines and regulations; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1040.81 of Title 21, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Child pornography" shall have the same meaning as such term is defined in Section 1024.1 of Title 21 of the Oklahoma Statutes;

1 2. "Child sexual exploitation" shall have the same meaning as
2 such term is defined in Section 843.5 of Title 21 of the Oklahoma
3 Statutes;

4 3. "Commercial entity" includes corporations, limited liability
5 companies, partnerships, limited partnerships, sole proprietorships,
6 or other legally recognized entities;

7 4. "Digitized identification card" means a data file available
8 on any mobile device which has connectivity to the Internet through
9 a state-approved application that allows the mobile device to
10 download the data file from a state agency or an authorized agent of
11 a state agency that contains all of the data elements visible on the
12 face and back of a license or identification card and displays the
13 current status of the license or identification card;

14 5. "Distribute" means to issue, sell, give, provide, deliver,
15 transfer, transmit, circulate, or disseminate by any means;

16 6. "Harmful to minors" shall have the same meaning as such term
17 is defined in Section 1040.75 of Title 21 of the Oklahoma Statutes;

18 7. "Internet" means the international computer network of both
19 federal and non-federal interoperable packet switched data networks;

20 8. "Minor" means any person under eighteen (18) years of age;

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

- 22 a. an employee of a newspaper, news publication, or news
23 source, printed or on an online or mobile platform, of
24 current news and public interest, while operating as

1 an employee as provided in this subparagraph, who can
2 provide documentation of such employment with the
3 newspaper, news publication, or news source, or
4 b. an employee of a radio broadcast station, television
5 broadcast station, cable television operator, or wire
6 service while operating as an employee as provided in
7 this subparagraph, who can provide documentation of
8 such employment;

9 10. "Obscene material" shall have the same meaning as such term
10 is defined in Section 1024.1 of Title 21 of the Oklahoma Statutes;

11 11. "Publish" means to communicate or make information
12 available to another person or entity on a publicly available
13 Internet website;

14 12. "Reasonable age verification methods" means verifying that
15 the person seeking to access the material is eighteen (18) years of
16 age or older by using any of the following methods:

- 17 a. use of a digitized information card as defined in this
18 section,
19 b. verification through an independent, third-party age
20 verification service that compares the personal
21 information entered by the individual who is seeking
22 access to the material that is available from a
23 commercially available database, or aggregate of
24 databases, that is regularly used by government

1 agencies and businesses for the purpose of age and
2 identity verification, or

3 c. any commercially reasonable method that relies on
4 public or private transactional data to verify the age
5 of the person attempting to access the material;

6 13. "Subscriber" means a person who pays to receive or access a
7 service;

8 14. "Substantial portion" means more than thirty-three and one-
9 third percent (33 1/3%) of total material on a website, which meets
10 the definition of "material harmful to minors" as defined in this
11 section; and

12 15. "Transactional data" means a sequence of information that
13 documents an exchange, agreement, or transfer between an individual,
14 commercial entity, or third party used for the purpose of satisfying
15 a request or an event. Transactional data includes records from
16 mortgage, education, and employment entities.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1040.82 of Title 21, unless
19 there is created a duplication in numbering, reads as follows:

20 A. Any commercial entity that knowingly and intentionally
21 publishes or distributes obscene material, or material that depicts
22 or promotes child pornography or child sexual exploitation, on the
23 Internet or any other type of electronic, digital, or print media,
24 may be held liable to an individual for nominal damages, actual

1 damages, court costs, and reasonable attorney fees as ordered by the
2 court.

3 B. A commercial entity that has violated the provisions of this
4 act in a manner that satisfies the standards for imposition of
5 punitive damages elsewhere provided by law may be held liable to an
6 individual for punitive damages.

7 C. Individual claims that satisfy the generally applicable
8 standards for joinder or class action elsewhere provided by law or
9 rules of court, as applicable, may combine their claims in a single
10 action.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1040.83 of Title 21, unless
13 there is created a duplication in numbering, reads as follows:

14 A. Any commercial entity that knowingly and intentionally
15 publishes or distributes material harmful to minors on the Internet
16 from a website that contains a substantial portion of such material
17 shall provide internet service subscribers and cellular service
18 subscribers the opportunity, before any individual using such
19 services may access the material, to request that access to the
20 material by subscription service be denied.

21 B. Upon such request by an Internet service subscriber or
22 cellular service subscriber, a commercial entity shall, without
23 charge, block access to its website on any device seeking to access
24 its website using the internet service or cellular service

1 subscription of the subscriber so that a minor does not receive
2 material harmful to minors via that subscription.

3 C. A commercial entity that fails to provide Internet service
4 subscribers or cellular service subscribers an opportunity to
5 request that access to the website of the commercial entity be
6 blocked is in violation of the provisions of this act and may be
7 held liable to the minor, by and through the parent or legal
8 guardian of the minor, for nominal damages, actual damages, court
9 costs, and reasonable attorney fees as ordered by the court.

10 D. A commercial entity that, after receipt of such request to
11 block access, allows a minor to access material harmful to minors on
12 its website is in violation of the provisions of this act and may be
13 held liable to the minor, by and through the parent or legal
14 guardian of the minor, for nominal damages, actual damages, court
15 costs, and reasonable attorney fees as ordered by the court.

16 E. A commercial entity that has violated the provisions of this
17 act in a manner that satisfies the standards for imposition of
18 punitive damages elsewhere provided by law may be held liable to the
19 minor, by and through the parent or legal guardian of the minor, for
20 punitive damages.

21 F. Individual claims that satisfy the generally applicable
22 standards for joinder or class action elsewhere provided by law or
23 rules of court, as applicable, may combine their claims in a single
24 action.

1 G. A commercial entity shall not be held liable for allowing
2 access to its website if the commercial entity performs reasonable
3 age verification methods to verify that the individual attempting to
4 access the material from its website is not a minor.

5 H. A commercial entity or third party that performs the
6 required age verification shall not retain any identifying
7 information of the individual after access has been granted to the
8 material.

9 I. A commercial entity that is found to have knowingly retained
10 identifying information of the individual, except as reasonably
11 necessary to effectuate a block request under the provisions of this
12 section, shall be liable to the individual for damages resulting
13 from retaining the identifying information, including nominal
14 damages, actual damages, court costs, and reasonable attorney fees
15 as ordered by the court.

16 J. This section shall not apply to any bona fide news or public
17 interest broadcast, website video, report, or event and shall not be
18 construed to affect the rights of a news-gathering organization,
19 unless the website of the organization contains a substantial
20 portion of material harmful to minors.

21 K. No Internet service provider, affiliate, or subsidiary of an
22 Internet service provider, search engine, or cloud service provider
23 shall be held to have violated the provisions of this section solely
24 for providing access or connection to or from a website or other

1 information or content on the Internet, or a facility, system, or
2 network not under the control of the provider, including
3 transmission, downloading, storing, or providing access, to the
4 extent that such provider is not responsible for the creation of the
5 content of the communication that constitutes obscene material or
6 material harmful to minors.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1040.84 of Title 21, unless
9 there is created a duplication in numbering, reads as follows:

10 A. The Attorney General may seek injunctive and other equitable
11 relief against a commercial entity that fails to comply with the
12 provisions of this act.

13 B. The Attorney General is authorized and directed to develop
14 and publish, consistent with the provisions of this act, guidance,
15 or regulations as appropriate to assist commercial entities to
16 comply with the provisions of this act.

17 SECTION 5. This act shall become effective November 1, 2024.
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