

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1960

By: Jett

AS INTRODUCED

An Act relating to material harmful to minors; amending 21 O.S. 2021, Section 1040.75, which relates to definitions; updating statutory references; updating statutory language; directing commercial entities to establish age verification methods to prevent minors from accessing harmful material; prohibiting retention of certain identifying information; establishing certain liability; providing specific exceptions; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2021, Section 1040.75, is amended to read as follows:

Section 1040.75. As used in Sections 1040.75 through 1040.77 of this title and Section 2 of this act:

1. "Minor" means any unmarried person under the age of eighteen (18) years;

2. "Harmful to minors" means:

- a. that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or

1 sadomasochistic abuse when the material or
2 performance, taken as a whole, has the following
3 characteristics:

4 (1) the average person eighteen (18) years of age or
5 older applying contemporary community standards
6 would find that the material or performance has a
7 predominant tendency to appeal to a prurient
8 interest in sex to minors, and

9 (2) the average person eighteen (18) years of age or
10 older applying contemporary community standards
11 would find that the material or performance
12 depicts or describes nudity, sexual conduct,
13 sexual excitement or sadomasochistic abuse in a
14 manner that is patently offensive to prevailing
15 standards in the adult community with respect to
16 what is suitable for minors, and

17 (3) the material or performance lacks serious
18 literary, scientific, medical, artistic, or
19 political value for minors, or

20 b. any description, exhibition, presentation or
21 representation, in whatever form, of inappropriate
22 violence;

23 3. "Inappropriate violence" means any description or
24 representation, in an interactive video game or computer software,

1 of violence which, taken as a whole, has the following
2 characteristics:

3 a. the average person eighteen (18) years of age or older
4 applying contemporary community standards would find
5 that the interactive video game or computer software
6 is patently offensive to prevailing standards in the
7 adult community with respect to what is suitable for
8 minors, and

9 b. the interactive video game or computer software lacks
10 serious literary, scientific, medical, artistic, or
11 political value for minors based on, but not limited
12 to, the following criteria:

13 (1) is glamorized or gratuitous,

14 (2) is graphic violence used to shock or stimulate,

15 (3) is graphic violence that is not contextually
16 relevant to the material,

17 (4) is so pervasive that it serves as the thread
18 holding the plot of the material together,

19 (5) trivializes the serious nature of realistic
20 violence,

21 (6) does not demonstrate the consequences or effects
22 of realistic violence,

23 (7) uses brutal weapons designed to inflict the
24 maximum amount of pain and damage,

1 (8) endorses or glorifies torture or excessive
2 weaponry, or

3 (9) depicts lead characters who resort to violence
4 freely;

5 4. "Nudity" means the:

6 a. showing of the human male or female genitals, pubic
7 area, or buttocks with less than a full opaque
8 covering,

9 b. showing of the female breast with less than a full
10 opaque covering of any portion of the female breast
11 below the top of the nipple, or

12 c. depiction of covered male genitals in a discernibly
13 turgid state;

14 5. "Sexual conduct" means acts of masturbation, homosexuality,
15 sexual intercourse, or physical contact with a person's clothed or
16 unclothed genitals, pubic area, buttocks, or, if such person be a
17 female, breast;

18 6. "Sexual excitement" means the condition of human male or
19 female genitals when in a state of sexual stimulation or arousal;

20 7. "Sadomasochistic abuse" means flagellation or torture by or
21 upon a person clothed or naked or the condition of being fettered,
22 bound or otherwise physically restrained on the part of one so
23 clothed or naked;

1 8. "Material" means any book, magazine, newspaper, pamphlet,
2 poster, print, picture, figure, image, description, motion picture
3 film, record, recording tape, CD-ROM ~~disk~~, ~~Magnetic Disk Memory~~
4 magnetic disk memory, ~~Magnetic Tape Memory~~ magnetic tape memory,
5 video tape, computer software or video game;

6 9. "CD-ROM" means a compact disk with read only memory which
7 has the capacity to store audio, video and written materials and may
8 be used by computer to play or display materials harmful to minors;

9 10. "~~Magnetic Disk Memory~~" disk memory" means a memory system
10 that stores and retrieves binary data on record-like metal or
11 plastic disks coated with a magnetic material, including but not
12 limited to floppy diskettes;

13 11. "~~Magnetic Tape Memory~~" tape memory" means a memory system
14 that stores and retrieves binary data on magnetic recording tape;

15 12. "Performance" means any motion picture, film, video tape,
16 played record, phonograph or tape, preview, trailer, play, show,
17 skit, dance, or other exhibition performed or presented to or before
18 an audience of one or more, with or without consideration;

19 13. "Knowingly" means having general knowledge of, or reason to
20 know, or a belief or ground for belief which warrants further
21 inspection or inquiry of both:

- 22 a. the character and content of any material or
23 performance which is reasonably susceptible of
24 examination by the defendant, and
25

1 b. the age of the minor. However, an honest mistake,
2 shall constitute an excuse from liability pursuant to
3 ~~this act~~ Section 1040.75 et seq. of this title if the
4 defendant made a reasonable bona fide attempt to
5 ascertain the true age of such minor;

6 14. "Person" means any individual, partnership, association,
7 corporation, or other legal entity of any kind; and

8 15. "A reasonable bona fide attempt" means an attempt to
9 ascertain the true age of the minor by requiring production of a
10 driver license, marriage license, birth certificate or other
11 governmental or educational identification card or paper and not
12 relying solely on the oral allegations or apparent age of the minor.

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1040.78 of Title 21, unless
15 there is created a duplication in numbering, reads as follows:

16 A. 1. It shall be unlawful for a commercial entity, as defined
17 in Section 3012 of Title 20 of the Oklahoma Statutes, to knowingly
18 publish or distribute material, more than one-third (1/3) of which
19 is harmful to minors, on the internet from a website or application,
20 including a social media platform, without performing a reasonable
21 age verification method to verify individuals attempting to access
22 the material are eighteen (18) years or older. Reasonable age
23 verification methods include requiring the individual to:

24 a. provide digital identification, or

1 b. comply with a commercial age verification system that
2 verifies in one or more of the following ways:

3 (1) government-issued identification, or

4 (2) any commercially reasonable method that relies on
5 public or private transactional data to verify
6 the age of the person attempting to access the
7 information.

8 2. Any commercial entity that is found to have violated
9 paragraph 1 of this subsection shall be liable to the parent or
10 legal guardian of the minor for damages resulting from a minor's
11 accessing the material, including court costs and reasonable
12 attorney fees.

13 B. 1. A commercial entity or third party that performs the
14 required age verification shall not retain any identifying
15 information of the individual after access has been granted to view
16 the material.

17 2. A commercial entity that is found to have knowingly retained
18 identifying information of the individual after access has been
19 granted to the individual shall be liable to the individual for
20 damages resulting from retaining the identifying information,
21 including court costs and reasonable attorney fees.

22 C. The provisions of this act shall not apply to any
23 scientific, educational, or news media broadcast video, report, or
24 event.

1 D. No interactive computer service provider, as defined in
2 Section 1040.80 of Title 21 of the Oklahoma Statutes, or its
3 affiliates or subsidiaries, or search engine shall be held to have
4 violated the provisions of this act for providing access or
5 connection to or from a website or other information or content on
6 the internet or a facility, system, or network not under that
7 provider's control, including transmission, downloading, storage,
8 access software, or other service that provides access of
9 connectivity, to the extent such provider is not responsible for the
10 creation of the content of the communication that constitutes
11 material harmful to minors.

12 SECTION 3. This act shall become effective November 1, 2024.

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