STATE OF NEW YORK

3946

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

Introduced by M. of A. WALSH -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to requiring age verification for internet pornography websites

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 390-f to read as follows:

§ 390-f. Age verification for internet pornography. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Commercial entity" means a corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legally recognized business entity.

(b) "Digital identification" means information stored on a digital network that may be accessed by a commercial entity and that serves as proof of the identity of an individual and location of the individual.

(c) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.

(d) "Minor" means an individual younger than eighteen years of age.

(e) "News organization" means:

(i) an employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, who is acting within the course and scope of their employment and can provide documentation of such employment with such newspaper, news publication, or news source; and

(ii) an employee of a radio broadcast station, television broadcast station, cable television operator, or wire service who is acting within the course and scope of their employment and can provide documentation of such employment.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(f) "Publish" means to communicate or make information available to another person or entity on a publicly available internet website.

(g) "Reasonable age verification method" shall mean a method as described under subdivision three of this section.

(h) "Sexual material harmful to minors" means any material that:

(i) a reasonable person, applying contemporary community standards, would find, taking such material as a whole and with respect to minors, is designed to appeal to or pander to the prurient interest;

(ii) in a manner patently offensive with respect to minors, exploits, is devoted to, or principally consists of descriptions of actual, simulated, or animated display or depiction of:

(A) a person's pubic hair, anus, or genitals or the nipple of the female breast;

(B) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or

(C) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(i) "Transactional data" means 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 records from mortgage, education, and employment entities.

2. Publication of material harmful to minors. (a) A commercial entity that knowingly or intentionally publishes or distributes material on an internet website, which contains any sexual material harmful to minors, shall utilize any information located within an IP address to verify that such attempted user is based within the geographic boundaries of the state of New York, and, where such user is verified as being located within the geographic boundaries of the state of New York, shall use reasonable age verification methods under subdivision three of this section to verify that an individual attempting to access the material is eighteen years of age or older.

(b) Each commercial entity that knowingly or intentionally publishes or distributes material on an internet website, which contains any sexual material harmful to minors, shall perform age verification for each internet protocol address attempting to access such website at least once per day. Attempted users that prove they are eighteen years of age of older may be allowed access to such website.

(c) A commercial entity that knowingly or intentionally publishes or distributes material on an internet website that is found to have violated this subdivision shall be liable to the attorney general who shall notify such commercial entity of its noncompliance. The attorney general may impose a civil penalty of up to fifty thousand dollars per day in connection with any such violation. The attorney general shall be authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice laws and rules.

3. Reasonable age verification methods. It shall be an affirmative defense to any alleged violation of subdivision two of this section that a commercial entity imposed reasonable age verification methods upon users attempting to access its internet website. A commercial entity that knowingly or intentionally publishes or distributes material on an internet website which contains any sexual material harmful to minors,

or a third party that performs age verification under this chapter shall:

(a) require an individual to comply with one or more of the following:

(i) provide digital identification;

(ii) pay for access via credit card transaction; or

(iii) comply with a commercial age verification system that verifies age using:

(1) government-issued identification; or

(2) a commercially reasonable method that relies on public or private transactional data to verify the age of an individual; or

(b) allow users to access such website via a password protected account, where such password is required to be changed monthly, and which has been verified by one of the methods under paragraph (a) of this subdivision at least once per calendar month.

4. Applicability. (a) The requirements of this section shall not apply to a bona fide news organization or public interest broadcast, website video, report, or event and shall not be construed to affect the rights of news organizations.

(b) An internet service provider, or its affiliates or subsidiaries, a search engine, or a cloud service provider shall not be determined to have violated this section solely for providing access or connection to or from a website or other information or content on the internet or on a facility, system, or network not under such provider's or search engine's control, including transmission, downloading, intermediate storage, access software, or other services to the extent such provider or search engine is not responsible for the creation of such content that constitutes sexual material harmful to minors.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.