

House Bill 2032

Sponsored by Representatives WRIGHT, BOICE, MCINTIRE, DIEHL; Representatives MANNIX, OSBORNE, RESCHKE, Senator WEBER (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Tells a business that hosts online matter than can harm a child to check the ages of those who can get access to the matter and not give access to people who are under 18 years of age. Lets people sue the business for not checking ages and giving people under 18 years of age access to matter than can harm a child. (Flesch Readability Score: 60.7).

Requires a commercial entity that engages in the business of publishing or distributing sexual material harmful to minors to verify the ages of individuals to whom the commercial entity distributes or makes available the sexual material harmful to minors. Specifies reasonable methods for age verification and requires a person that verifies ages to destroy or delete information that could identify an individual or the individual's address or that could disclose other personal information about the individual.

Imposes liability in an amount not to exceed \$5,000 for failure to comply with the age verification requirement if the failure results in exposing an individual under the age of 18 years to sexual material harmful to minors. Imposes liability in an amount not to exceed the greater of a plaintiff's actual damages or \$5,000 for failure to destroy or delete information used in age verification.

A BILL FOR AN ACT

1
2 Relating to age verification requirements for access to sexual material harmful to minors.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **“Commercial entity” means a corporation, limited liability company, nonprofit corpo-**
6 **ration, partnership, limited liability partnership, limited partnership, business trust or other**
7 **business entity engaged in commerce with individual residents of this state.**

8 (b) **“Distributing” means issuing, selling, giving, providing, delivering, transferring,**
9 **transmuting, circulating or disseminating by any means in exchange for compensation.**

10 (c) **“Publishing” means communicating or making available to another person informa-**
11 **tion by means of a publicly available Internet website.**

12 (d) **“Sexual material harmful to minors” means material that depicts sexually explicit**
13 **conduct, as defined in ORS 163.665, or that:**

14 (A) **The average person applying contemporary community standards would find, taking**
15 **the material as a whole and with respect to persons under 18 years of age, is designed to**
16 **appeal or pander to the prurient interest;**

17 (B) **Depicts sexual images or conduct that, taken as a whole, lacks serious literary, ar-**
18 **tistic, political or scientific value for persons under 18 years of age; or**

19 (C) **In a manner patently offensive with respect to persons under 18 years of age exploits,**
20 **is devoted to or principally consists of depictions or descriptions, whether actual, simulated**
21 **or animated, of:**

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

23 (ii) **Touching, caressing or fondling of nipples, breasts, buttocks, anuses or genitals.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (e) “Transactional data” means a sequence of information that documents an exchange,
 2 agreement or transfer between an individual, commercial entity or third party used for the
 3 purpose of satisfying a request or event, including records of a mortgage, education or em-
 4 ployment.

5 (2)(a) A commercial entity that knowingly and intentionally engages in the business of
 6 publishing or distributing material on an Internet website, including a social media platform,
 7 more than one-third of which is sexual material harmful to minors, shall use a reasonable
 8 method to verify the ages of persons to whom the commercial entity distributes or makes
 9 available the material on the website and may not distribute or make available to persons
 10 under the age of 18 years any sexual material harmful to minors.

11 (b) A commercial entity that performs the verification described in paragraph (a) of this
 12 subsection may not store or retain, and shall delete or destroy, any information that the
 13 commercial entity used in performing the verification that could identify an individual or the
 14 individual’s address or contact information or that could reveal other personal information
 15 about the individual.

16 (c) A commercial entity may agree with another person to have the other person perform
 17 the verification described in paragraph (a) of this subsection on behalf of the commercial
 18 entity. The commercial entity in any agreement with the other person shall require the other
 19 person to comply with the same requirements that apply to the commercial entity under
 20 paragraphs (a) and (b) of this subsection.

21 (3) A reasonable method to verify age under subsection (2)(a) of this section is:

22 (a) Using information stored on a digital network that positively identifies individuals and
 23 the birth dates of the individuals in a manner that is minimally sufficient for the purposes
 24 of authorizing payment in a commercial transaction or for the purposes of receiving benefits
 25 from a governmental agency; or

26 (b) Complying with the requirements of a commercial system that verifies age using:

27 (A) Government-issued identification; or

28 (B) Public or private transactional data.

29 (4)(a) A commercial entity that fails to verify the age of an individual to whom the
 30 commercial entity distributes or makes available sexual material harmful to minors is liable
 31 for damages in an amount not to exceed \$5,000 for each instance in which the commercial
 32 entity distributes or makes available sexual material harmful to minors to an individual un-
 33 der 18 years of age.

34 (b) A commercial entity or person that fails to destroy or delete information the com-
 35 mercial entity or person uses to perform an age verification in accordance with the re-
 36 quirements of subsection (2)(b) of this section is liable for damages in an amount not to
 37 exceed the greater of a plaintiff’s actual damages or \$5,000.

38 (c) A plaintiff may bring an action under this subsection in a circuit court of this state
 39 and may obtain a judgment for costs and attorney fees if the plaintiff prevails in the action.

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