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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 5409

04/24/2024 Authored by Niska, Scott, Robbins, Altendorf, Dotseth and others
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to consumer protection; requiring age verification for websites with material
1.3 harmful to minors; providing for enforcement by the attorney general; creating a
1.4 private right of action; proposing coding for new law in Minnesota Statutes, chapter
1.5 325F.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. 325F.1791 AGE VERIFICATION FOR INTERNET CONTENT
1.8 HARMFUL TO MINORS.

1.9 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.10 the meanings given.

1.11 (b) "Host" means to provide the technology and resources necessary to store and maintain
1.12 the electronic files and applications associated with a website on a computer server, in order
1.13 for the website to be accessible via the Internet. For purposes of this section, an Internet
1.14 service provider does not host a website.

1.15 (c) "Identifying information" means any information that is linked or reasonably linkable
1.16 to an identified or identifiable natural person.

1.17 (d) "Interactive computer service" means any information service, system, or access
1.18 software provider that provides or enables computer access by multiple users to a computer
1.19 server, including (1) a service or system that provides access to the Internet, and (2) systems
1.20 operated or services offered by libraries or educational institutions.

1.21 (e) "Intimate parts" means the genitals, pubic area, or anus of an individual. If the
1.22 individual is female, intimate parts includes a partially or fully exposed nipple.

2.1 (f) "Material harmful to minors" means a text, sound recording, image, video, or similar
2.2 representation or depiction that:

2.3 (1) the average person, applying contemporary community standards and evaluating the
2.4 material (i) as a whole, and (ii) with respect to minors, would determine is designed to
2.5 appeal to or pander to the prurient interest;

2.6 (2) in a manner patently offensive with respect to minors, exploits, is devoted to, or
2.7 principally consists of representations or descriptions of actual, simulated, or animated
2.8 display or depiction of intimate parts, sexual contact, sexual penetration, bestiality,
2.9 sadomasochistic abuse, excretory functions, exhibitions, or other sexual acts; and

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

2.11 (g) "Sexual contact" means the intentional touching of intimate parts or intentional
2.12 touching with seminal fluid or sperm onto another person's body.

2.13 (h) "Sexual penetration" means any of the following acts:

2.14 (1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or

2.15 (2) any intrusion, however slight, into the genital or anal openings of an individual by
2.16 another's body part or an object used by another for this purpose.

2.17 (i) "Shares or distributes" means to display or present material or make material available
2.18 for download, with or without consideration.

2.19 Subd. 2. **Age verification required.** (a) A person who knowingly (1) shares or distributes
2.20 material that is harmful to minors on a website where the material appears on 25 percent or
2.21 more of the webpages viewed on the website in any calendar month, or (2) hosts a website
2.22 that meets the criteria under clause (1) must verify that any individual who is a resident of
2.23 Minnesota or who is located in Minnesota at the time of the attempted access is 18 years
2.24 of age or older.

2.25 (b) It is a violation of this section to allow an individual to access a website identified
2.26 under paragraph (a) without verifying that the individual is 18 years of age or older. Required
2.27 age verification must be conducted through the use of:

2.28 (1) a commercially available database that is regularly used by businesses or governmental
2.29 entities to verify age and identity; or

2.30 (2) any other commercially reasonable method to verify age and identity approved by
2.31 the commissioner of commerce.

3.1 (c) The commissioner of commerce may review and approve reliable methods to verify
3.2 age and identity for purposes of this section. The commissioner's approval under this
3.3 paragraph is not subject to the rulemaking provisions of chapter 14 and section 14.386 does
3.4 not apply.

3.5 Subd. 3. **Data privacy.** (a) A person who performs the age verification required by
3.6 subdivision 2 must not retain any identifying information submitted by an individual to
3.7 verify age.

3.8 (b) A person who knowingly retains identifying information of an individual in violation
3.9 of paragraph (a) is liable to the individual for damages resulting from the retention, including
3.10 reasonable attorney fees and costs as ordered by the court.

3.11 Subd. 4. **Enforcement; civil penalties.** (a) A person who accesses a website without
3.12 verifying the person's age in violation of this section may report the violation to the attorney
3.13 general. Upon receipt of a report made under this paragraph, the attorney general must
3.14 investigate and may bring a civil enforcement action and recover the relief provided in
3.15 section 8.31. Each instance that a website is accessed in violation of this section constitutes
3.16 a separate violation.

3.17 (b) The parent or legal guardian of a minor who accesses a website without verifying
3.18 the minor's age in violation of this section may bring a civil action against the person who
3.19 violated this section to recover damages, together with costs and disbursements, including
3.20 reasonable attorney fees, and receive other equitable relief determined by the court. In
3.21 addition to any other damages and relief awarded, a person who violates this section may
3.22 be liable for a civil penalty of not more than \$25,000 per violation.

3.23 Subd. 5. **Limitations.** Nothing in this section imposes an obligation or liability on an
3.24 Internet service provider or the user of an interactive computer service.