



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4960/1

JAM:amn

2023 SENATE BILL 683

November 15, 2023 - Introduced by Senators WANGGAARD and JACQUE, cosponsored by Representatives GUSTAFSON, ALLEN, BEHNKE, BODDEN, BRANDTJEN, DITTRICH, GUNDRUM, MURPHY, MURSAU, O'CONNOR, RETTINGER, ROZAR, SPIROS and WICHGERS. Referred to Committee on Mental Health, Substance Abuse Prevention, Children and Families.

AN ACT *to create* 100.75 of the statutes; **relating to:** the distribution of certain materials to minors.

Analysis by the Legislative Reference Bureau

This bill prohibits business entities from knowingly and intentionally publishing or distributing material harmful to minors on the Internet from a website that contains a substantial portion of such material, unless the business entity performs reasonable age verification methods to verify the age of individuals attempting to access the website. "Material harmful to minors" is defined in the bill to include material that is designed to appeal to prurient interests, that principally consists of descriptions or depictions of actual or simulated sexual acts or body parts including pubic areas, genitals, buttocks, and female nipples, and that lacks serious literary, artistic, political, or scientific value for minors. In the bill, "reasonable age verification methods" includes various methods whereby the business entity may verify that an individual seeking to access the material is not a minor. Under the bill, persons that perform reasonable age verification methods may not knowingly retain identifying information of the individual attempting to access the website after the individual's access has been granted or denied.

A person that violates the provisions of the bill may be subject to civil liability for damages caused by the violation.

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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.75 of the statutes is created to read:

100.75 Publishing and distributing certain materials to minors. (1)

DEFINITIONS. In this section:

(a) “Business entity” means a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, limited liability company, or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such an organization or entity.

(b) “Distribute” means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.

(c) “Material harmful to minors” means material that is all of the following:

1. Material that the average person, applying contemporary community standards and taking the material as a whole and with respect to minors, would find to be designed to appeal or pander to prurient interests.

2. Material that exploits, is devoted to, or principally consists of descriptions of actual, simulated, or animated display or depiction of any of the following, in a manner patently offensive with respect to minors:

a. Pubic hair, anus, vulva, genitals, or nipple of the female breast.

b. Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals.

c. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act.

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3. Material that when taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(d) “Minor” means an individual under 18 years of age.

(e) “News-gathering organization employee” means any of the following:

1. An employee of a print, online, or mobile platform newspaper, news publication, or news source that provides current news and public interest information, if the employee is acting in his or her capacity as an employee of the newspaper, news publication, or news source.

2. An employee of a radio broadcast station, television broadcast station, cable television operator, or wire service, if the employee is acting in his or her capacity as an employee of the radio broadcast station, television broadcast station, cable television operator, or wire service.

(f) “Publish” means to communicate or make information available to another person on a publicly available Internet website.

(g) “Reasonable age verification methods” means verification by a business entity using any of the following methods to determine that an individual seeking access to material harmful to minors is not a minor:

1. A commercial age verification system that verifies age using the individual’s government-issued identification card or by using any commercially reasonable method that uses public or private transactional data gathered about the individual.

2. A government-issued digitized identification card.

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(h) “Substantial portion” means more than 33 1/3 percent of the total material on a website.

(2) PROHIBITIONS. (a) No business entity may knowingly and intentionally publish or distribute material harmful to minors on the Internet from a website that contains a substantial portion of such material, unless the business entity performs reasonable age verification methods to verify the age of individuals attempting to access the website.

(b) A person that performs a reasonable age verification method in compliance with par. (a) may not knowingly retain identifying information of the individual attempting to access the website after the individual’s access has been granted or denied.

(3) CIVIL LIABILITY. (a) An individual injured by a minor’s access of materials harmful to minors due to a violation of sub. (2) (a) may bring a claim seeking damages resulting from the injury.

(b) An individual injured by a person’s retention of identifying information in violation of sub. (2) (b) may bring a claim seeking damages resulting from the injury, court costs, and reasonably attorney fees notwithstanding s. 814.04 (1).

(4) EXEMPTIONS. (a) This section does not apply to any bona fide news or public interest broadcast, video, report, or event, and may not be construed to affect the rights of any news-gathering organization employee.

(b) No Internet service provider or its affiliates or subsidiaries, search engine, or cloud service provider shall be held to have violated this section on the basis of the entity having provided access or connection to or from a website, content on the

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Internet, or a facility, system, or network not under that entity's control, or the entity's provision of communicating, transmitting, downloading, intermediate storage of, providing access software for, or other services that communicate material harmful to minors, if that entity is not responsible for the creation of the content that constitutes material harmful to minors.

(END)