

House File 864

S-5231

1 Amend House File 864, as passed by the House, as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. NEW SECTION. 554J.1 Definitions.

5 For purposes of this chapter:

6 1. "*Application*" means a software application or electronic
7 service that a user may run or direct on a mobile device.

8 2. "*Commercial entity*" means a legally recognized business
9 entity.

10 3. "*Digital identification*" means information stored on a
11 digital network that may be accessed by a commercial entity and
12 that serves as proof of the identity of an individual.

13 4. "*Interactive computer service*" means the same as defined
14 in 47 U.S.C. §230.

15 5. "*Minor*" means an individual under eighteen years of age.

16 6. "*Mobile device*" means a device described by all of the
17 following:

18 a. The device is small enough to be held and operated in
19 hand.

20 b. The device provides a cellular or wireless connection to
21 the internet.

22 c. The device has the ability to run an application.

23 7. "*News-gathering organization*" means any of the following:

24 a. An employee of a newspaper, news publication, or other
25 commercial entity with the primary purpose of serving as a
26 source of current news and public interest stories, who is
27 acting within the course and scope of that employment and can
28 provide documentation of that employment.

29 b. An employee of a radio broadcast station, television
30 broadcast station, cable television operator, or wire service
31 who is acting within the course and scope of that employment
32 and can provide documentation of that employment.

33 8. "*Pornographic for minors*" means material or a performance
34 described by all of the following:

35 a. The average person, applying contemporary community

1 standards, would find that the material or performance, taken
2 as a whole, has a tendency to cater or appeal to a prurient
3 interest of minors.

4 *b.* The material or performance depicts nudity, sexual
5 conduct, the condition of human genitals when in a state of
6 sexual stimulation or arousal, or sadomasochistic abuse in a
7 way which is patently offensive to the average person applying
8 contemporary adult community standards with respect to what is
9 suitable for minors.

10 *c.* The material or performance, taken as a whole, lacks
11 serious literary, artistic, political, or scientific value for
12 minors.

13 9. *“Provider”* means all of the following:

14 *a.* An internet service provider.

15 *b.* A cloud service provider.

16 *c.* A wireless service provider.

17 *d.* An internet search engine.

18 *e.* An information service as defined in 47 U.S.C. §153.

19 *f.* A telecommunications service as defined in 47 U.S.C.
20 §153.

21 *g.* A cable service as defined in 47 U.S.C. §522.

22 *h.* An affiliate or a subsidiary of an entity listed in
23 paragraphs *“a”* through *“g”*.

24 10. *“Substantial portion”* means thirty-three percent or more
25 of the total amount of data publicly available on an internet
26 site or application.

27 11. *“Transactional data”* means a sequence of information
28 that documents an exchange, agreement, or transfer between an
29 individual, commercial entity, or third party.

30 Sec. 2. NEW SECTION. 554J.2 Age verification.

31 1. A person shall not operate an internet site, an
32 application, or a segment of an internet site or application,
33 including on a social media platform, that contains a
34 substantial portion of content pornographic for minors unless
35 the person uses reasonable age verification to prevent minors

1 from accessing such content.

2 2. Reasonable age verification shall include any of the
3 following:

4 a. Requiring an individual to provide digital
5 identification.

6 b. A method that is commercially reasonable given a person's
7 scope of business and that relies on transactional data to
8 verify an individual's age.

9 c. A method approved by the attorney general by rule.

10 3. A person that performs reasonable age verification under
11 this section, including a third party that contracts with a
12 person to perform reasonable age verification for the person,
13 shall not retain, sell, lease, or otherwise disseminate any
14 identifying information of an individual subject to reasonable
15 age verification unless retention or dissemination of the
16 identifying information is required by law or a court order.

17 4. A person that performs reasonable age verification
18 under this section, including a third party that contracts
19 with a person to perform reasonable age verification for the
20 person, shall use reasonable methods given the person's scope
21 of business to secure all data collected and transmitted under
22 this section.

23 Sec. 3. NEW SECTION. 554J.3 Limitations.

24 1. This chapter shall not apply to any of the following:

25 a. A bona fide news or public interest broadcast, news
26 recording, report, or event.

27 b. A news-gathering organization.

28 c. An internet service provider, an internet service
29 provider's affiliates and subsidiaries, a search engine,
30 or a cloud service provider solely for providing access or
31 connection to an internet site or other information or content
32 on the internet, in a facility, on a system, or on a network
33 not under the internet service provider's, affiliate's,
34 subsidiary's, search engine's, or cloud service provider's
35 control. This subsection shall not apply if the internet

1 service provider, affiliate, subsidiary, search engine, or
2 cloud service provider was responsible for the creation of the
3 content pornographic for minors.

4 2. This chapter shall not be construed to impose liability
5 on a user of an interactive computer service on the internet.

6 3. This chapter shall not be construed to impose liability
7 on a provider solely for providing access or connection to
8 an internet site, system, or network that contains material
9 pornographic for minors provided that the internet site,
10 system, or network is not under the provider's control. For
11 purposes of this subsection, "access or connection" includes
12 but is not limited to transmitting, downloading, providing
13 intermediate storage for, and providing access software for
14 data.

15 Sec. 4. NEW SECTION. 554J.4 Enforcement and penalties.

16 1. The attorney general shall enforce this chapter, seek
17 injunctions for violations of this chapter, and bring actions
18 against a person thought to be in violation of this chapter.

19 2. Each time an individual accesses an internet site
20 or application not in compliance with this chapter shall
21 constitute a separate violation.

22 3. a. A violation of this chapter is punishable by a civil
23 penalty of up to one thousand dollars per violation. A person
24 in violation of this chapter shall not accrue civil penalties
25 of more than ten thousand dollars in a single day.

26 b. Civil penalties collected under this section shall be
27 deposited into the general fund of the state.

28 Sec. 5. NEW SECTION. 554J.5 Rules.

29 The attorney general shall adopt rules pursuant to chapter
30 17A to implement and administer this chapter.>

31 2. Title page, by striking lines 1 through 3 and inserting
32 <An Act requiring persons who operate certain internet sites,
33 applications, or a segment of an internet site or application
34 that contains material pornographic for minors to perform
35 reasonable age verification.>

KEVIN ALONS