

**Senate File 2227 - Introduced**

SENATE FILE 2227

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**A BILL FOR**

1 An Act relating to obscene material available on devices  
2 and imposing civil liability on platforms who publish or  
3 distribute obscene material on the internet and including  
4 effective date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 554H.1 Short title.

2 This chapter shall be known and cited as the "Age  
3 Verification for Websites Containing Material Harmful to Minors  
4 Act".

5 Sec. 2. NEW SECTION. 554H.2 Prevention of harm to minors —  
6 purpose of chapter.

7 The purpose of this chapter is to prevent mental, emotional,  
8 physical, and developmental harm to minors by requiring  
9 platforms to adopt and operate reasonable age verification  
10 measures to ensure that minors accessing the online platform do  
11 not access material harmful to minors.

12 Sec. 3. NEW SECTION. 554H.3 Definitions.

13 As used in this chapter, unless the context otherwise  
14 requires:

15 1. "Child pornography" means the same as set forth in 18  
16 U.S.C. §2256.

17 2. "Covered platform" means an entity that is a website  
18 for which it is in the regular course of the trade or business  
19 of the entity to create, host, or make available content that  
20 meets the definition of obscene material, and is provided by  
21 the entity, a user, or other information content provider.

22 3. "Indecent" means any image, video, audio recording,  
23 audio-video file, film, written material, document,  
24 software, data file, scripting language, computer code, game,  
25 virtual-reality technology, interactive and noninteractive  
26 streaming service, interactive and noninteractive streaming  
27 software, or downloadable application that, following the  
28 regulations set forth by the federal communications commission,  
29 47 C.F.R. §73.3999, is all of the following:

30 a. The average person, applying contemporary community  
31 standards, would find the material to be generally harmful to  
32 minors.

33 b. Depicts, describes, exposes, or presents, in a patently  
34 offensive way, sexual conduct as described in section 659A.2  
35 and section 709.15, subsection 2.

1     *c.* Taken as a whole, lacks serious literary, scientific, or  
2 artistic value for purposes of the education of minors.

3     4. "*Information content provider*" shall have the meaning as  
4 set forth in 47 U.S.C. §230.

5     5. "*Interactive computer service*" means the same as that  
6 term is defined in 47 U.S.C. §230.

7     6. "*Material harmful to minors*" means any picture, image,  
8 graphic image file, film, videotape, or other visual depiction,  
9 that is obscene material, indecent, or child pornography.

10    7. "*Minor*" means the same as defined in section 728.1.

11    8. "*Obscene material*" means the same as defined in section  
12 728.1.

13    9. "*Reasonable age verification measures*" means any of the  
14 following:

15     *a.* State-issued driver's license.

16     *b.* State-issued identification.

17     *c.* Government identification card.

18     *d.* Military identification card.

19     *e.* Credit cards, not including cards that do not require the  
20 individual in ownership of the account to be eighteen years of  
21 age or older.

22     *f.* Debit cards, not including cards that do not require the  
23 individual in ownership of the account to be eighteen years of  
24 age or older.

25     *g.* Bank account information.

26     *h.* Any other means or method that reliably and accurately  
27 can determine a user of a covered platform is a minor and  
28 prevent access by minors to the content on a covered platform.

29    Sec. 4. NEW SECTION. 554H.4 **Application.**

30    A covered platform that publishes or distributes material  
31 harmful to minors on the internet shall be held liable if  
32 the platform fails to perform reasonable age verification  
33 methods to verify the age of individuals attempting to access  
34 the material and fails to prevent access by minors to the  
35 material. Any covered platform or third party that performs

1 the required age verification shall not retain any identifying  
2 information of the individual after access has been granted  
3 to the material. Any covered platform that is found to have  
4 violated this chapter shall be liable to an individual for  
5 damages, including those defined in this chapter and court  
6 costs and reasonable attorney fees. A covered platform that  
7 is found to have knowingly retained identifying information of  
8 the individual after access has been granted to the individual  
9 shall be liable to the individual for damages for retaining the  
10 identifying information, including court costs and reasonable  
11 attorney fees.

12 Sec. 5. NEW SECTION. **554H.5 Remedies.**

13 1. A parent or legal guardian of a minor may bring a  
14 civil action against a covered platform for violating this  
15 chapter with respect to the minor. The plaintiff shall recover  
16 damages with respect to each such minor in an amount of five  
17 thousand dollars per instance that the covered platform failed  
18 to perform reasonable age verification methods to restrict a  
19 minor's access to material harmful to minors. Each instance  
20 shall constitute a separate violation.

21 2. An individual may bring a civil action against a covered  
22 platform for knowingly retaining identifying information of  
23 such individual after access to the material harmful for minors  
24 has been granted to the individual.

25 3. If a defendant is found liable in a civil action under  
26 this chapter, the plaintiff may recover costs and reasonable  
27 and necessary attorney fees.

28 4. Notwithstanding any other law:

29 a. The requirements of this chapter shall be enforced  
30 exclusively through the private civil actions described in this  
31 section.

32 b. No direct or indirect enforcement of this chapter may be  
33 taken or threatened by the state, a political subdivision, a  
34 district attorney, or an executive or administrative officer  
35 or employee of this state against any person or entity, in any

1 manner whatsoever, except as provided in this section.

2 Sec. 6. NEW SECTION. 554H.6 Jury trial.

3 In any action brought under this chapter, the plaintiff  
4 shall have the right to a jury trial.

5 Sec. 7. NEW SECTION. 554H.7 Limitation on effect of  
6 chapter.

7 1. This chapter shall not apply to any internet service  
8 provider, or internet service provider affiliates or  
9 subsidiaries, general purpose search engine, or cloud service  
10 provider.

11 2. This chapter does not subject a covered platform to any  
12 cause of action or liability to the extent the platform is  
13 protected from causes of action or liability by federal law.

14 3. Compliance with this chapter shall not excuse any person  
15 from any other legal duties or relieve any person from any  
16 other legal remedies.

17 4. This chapter does not preclude the enforcement of any  
18 other law or regulation against conduct that is independently  
19 prohibited by such other law or regulation and that would  
20 remain prohibited by such other law or regulation in the  
21 absence of this chapter.

22 Sec. 8. NEW SECTION. 554H.8 Waiver and estoppel prohibited.

23 1. A waiver, purported waiver, or estoppel of a person's  
24 right to bring a civil action under this chapter, or of any  
25 remedy or any other protection provided by this chapter, is  
26 void as unlawful and against public policy, and a court or  
27 arbitrator shall not enforce or give effect to such a waiver or  
28 estoppel, notwithstanding any choice of law provision or other  
29 provision in any contract or other agreement.

30 2. The waiver and estoppel prohibition described by  
31 subsection 1 shall not apply to contractual waivers to the  
32 extent any such application of the prohibition would impair the  
33 obligation of contract in violation of the Constitution of the  
34 State of Iowa or the Constitution of the United States.

35 3. The waiver and estoppel prohibition described by

1 subsection 1 is a public policy limitation on contractual  
2 and other waivers or estoppels of the highest importance and  
3 interest to this state, and this state is exercising and  
4 enforcing this prohibition to the full extent permitted by the  
5 Constitution of the State of Iowa and the Constitution of the  
6 United States.

7 Sec. 9. NEW SECTION. 554H.9 Void arrangements.

8 Any contract, agreement, or other arrangement made or  
9 entered into in violation of this chapter shall be contrary to  
10 law and public policy and shall be void and unenforceable.

11 Sec. 10. EFFECTIVE DATE. This Act takes effect January 1,  
12 2025.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with  
15 the explanation's substance by the members of the general assembly.

16 This bill creates civil liability for commercial entities  
17 who publish or distribute material harmful to minors on the  
18 internet.

19 The bill provides that the purpose of the new Code chapter  
20 is to prevent harm to minors by restricting access to  
21 harmful material by minors on covered platforms by using age  
22 verification technology. Material harmful to minors is defined  
23 as any picture, image, graphic image file, film, videotape, or  
24 other visual depiction, that is obscene material, indecent, or  
25 child pornography.

26 The bill provides for damages. The bill allows a parent or  
27 guardian of a minor that has been exposed to harmful material  
28 to recover damages of \$5,000 per instance that the covered  
29 platform failed to perform reasonable age verification. The  
30 bill provides that any individual whose information has been  
31 knowingly retained by the covered platform after access to  
32 harmful material has been granted may bring a civil action  
33 against the covered platform. If a defendant has been found  
34 liable, the plaintiff may recover costs and attorney fees.

35 The bill provides that in any action under the new Code

1 chapter, the plaintiff shall have a right to jury trial.

2 The bill limits the application of the new Code chapter.

3 The new Code chapter shall not apply to any internet service  
4 provider, or internet service provider affiliates or  
5 subsidiaries, general purpose search engine, or cloud service  
6 provider and does not subject a covered platform to any cause  
7 of action or liability to the extent the platform is protected  
8 from causes of action or liability by federal law. The  
9 bill provides that compliance with the new Code chapter does  
10 not excuse any person from any other legal duties or legal  
11 remedies.

12 The bill prohibits the waiver or estoppel of a person's  
13 rights under the new Code chapter. The bill makes invalid any  
14 contractual agreement entered into in violation of the new Code  
15 chapter.

16 The bill takes effect January 1, 2025.