

House File 2606 - Introduced

HOUSE FILE 2606
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2274)

A BILL FOR

1 An Act requiring persons who operate certain internet sites,
2 applications, or a segment of an internet site or application
3 that contains material pornographic for minors to perform
4 reasonable age verification.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **554J.1 Definitions.**

2 For purposes of this chapter:

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

5 2. *"Commercial entity"* means a legally recognized business
6 entity.

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

10 4. *"Minor"* means an individual under eighteen years of age.

11 5. *"Mobile device"* means a device described by all of the
12 following:

13 a. The device is small enough to be held and operated in
14 hand.

15 b. The device provides a cellular or wireless connection to
16 the internet.

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

18 6. *"News-gathering organization"* means any of the following:

19 a. A newspaper, news publication, or other commercial entity
20 with the primary purpose of serving as a source of current news
21 and public interest stories, regardless of the primary format on
22 which the entity publishes news.

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

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

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

34 a. The average person, applying contemporary community
35 standards, would find that the material or performance, taken as

1 a whole, has a tendency to cater or appeal to a prurient interest
2 of minors.

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

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

12 8. "*Substantial portion*" means thirty-three percent or more
13 of the total amount of data publicly available on an internet
14 site.

15 9. "*Transactional data*" means a sequence of information
16 that documents an exchange, agreement, or transfer between an
17 individual, commercial entity, or third party.

18 Sec. 2. NEW SECTION. **554J.2 Age verification.**

19 1. A person shall not operate an internet site, an
20 application, or a segment of an internet site or application,
21 including on a social media platform, that contains a substantial
22 portion of content pornographic for minors unless the person uses
23 reasonable age verification to prevent minors from accessing such
24 content.

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

27 a. Requiring an individual to provide digital identification.

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

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

32 3. A person that performs reasonable age verification under
33 this section, including a third party that contracts with a
34 person to perform reasonable age verification for the person,
35 shall not retain any identifying information of an individual

1 subject to reasonable age verification unless retention of the
2 identifying information is required by law or a court order.

3 4. A person that performs reasonable age verification under
4 this section, including a third party that contracts with a
5 person to perform reasonable age verification for the person,
6 shall use reasonable methods given the person's scope of business
7 to secure all data collected and transmitted under this section.

8 Sec. 3. NEW SECTION. **554J.3 Limitations.**

9 This chapter shall not apply to any of the following:

10 1. A bona fide news or public interest broadcast, news
11 recording, report, or event.

12 2. A news-gathering organization.

13 3. An internet service provider, an internet service
14 provider's affiliates and subsidiaries, a search engine, or a
15 cloud service provider solely for providing access or connection
16 to an internet site or other information or content on the
17 internet, in a facility, on a system, or on a network not
18 under the internet service provider's, affiliate's, subsidiary's,
19 search engine's, or cloud service provider's control. This
20 subsection shall not apply if the internet service provider,
21 affiliate, subsidiary, search engine, or cloud service provider
22 was responsible for the creation of the content pornographic for
23 minors.

24 Sec. 4. NEW SECTION. **554J.4 Enforcement and penalties.**

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

28 2. Each time an individual accesses an internet site or
29 application not in compliance with this chapter shall constitute
30 a separate violation.

31 3. a. A violation of this chapter is punishable by a civil
32 penalty of up to one thousand dollars per violation. A person
33 in violation of this section shall not accrue civil penalties of
34 more than ten thousand dollars in a single day.

35 b. Civil penalties collected under this section shall be

1 deposited into the general fund of the state.

2 Sec. 5. NEW SECTION. **554J.5 Rules.**

3 The attorney general shall adopt rules pursuant to chapter 17A
4 to implement and administer this chapter.

5 EXPLANATION

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

8 This bill requires persons who operate certain internet sites
9 (sites), applications (apps), or a segment of a site or an app to
10 perform reasonable age verification.

11 The bill defines "application", "commercial entity", "digital
12 identification", "minor", "mobile device", "news-gathering
13 organization", "pornographic for minors", "substantial portion",
14 and "transactional data".

15 The bill prohibits a person from operating a site, an
16 app, or a segment of a site or an app, including on a
17 social media platform, that contains a substantial portion of
18 content pornographic for minors unless the person uses reasonable
19 age verification to prevent minors from accessing the content
20 pornographic for minors. Reasonable age verification includes
21 requiring an individual to provide digital identification; a
22 method that is commercially reasonable given the person's scope
23 of business and that relies on transactional data to verify an
24 individual's age; or a method approved by the attorney general by
25 rule.

26 The bill prohibits a person that performs reasonable age
27 verification under the bill, including a third party that
28 contracts with a person to perform reasonable age verification
29 for the person, from retaining any identifying information of
30 an individual subject to reasonable age verification unless
31 retention of the identifying information is required by law or
32 a court order.

33 The bill requires a person that performs reasonable age
34 verification under the bill, including a third party that
35 contracts with a person to perform reasonable age verification

1 for the person, to use reasonable methods given the person's
2 scope of business to secure all data collected and transmitted
3 under the bill.

4 The bill lists certain entities and situations to which the
5 bill does not apply.

6 The bill requires the attorney general to enforce the bill,
7 seek injunctions for violations of the bill, and bring actions
8 against a person thought to be in violation of the bill.

9 Each time an individual accesses a site or application not in
10 compliance with the bill constitutes a separate violation. A
11 violation of the bill is punishable by a civil penalty of up to
12 \$1,000 per violation. A person in violation of the bill shall
13 not accrue civil penalties of more than \$10,000 in a single day.
14 Civil penalties collected under the bill shall be deposited into
15 the general fund of the state.

16 The bill requires the attorney general to adopt rules to
17 implement and administer the bill.