

Senate File 207 - Introduced

SENATE FILE 207
BY ALONS

A BILL FOR

1 An Act relating to civil liability for certain commercial
2 entities who publish or distribute obscene material on the
3 internet.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

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

2 For purposes of this chapter:

3 1. "*Covered platform*" means a commercial entity for which it
4 is in the regular course of the trade or business of the entity
5 to create, host, or make available, on the internet, obscene
6 material provided by the entity, a user, or other information
7 content provider.

8 2. "*Identifying information*" means any representation of
9 information that permits the identity of an individual to whom
10 the information applies to be reasonably inferred by either
11 direct or indirect means.

12 3. "*Information content provider*" means the same as defined
13 in 47 U.S.C. §230.

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

16 5. "*Obscene material*" means the same as defined in section
17 728.1.

18 6. "*Provider*" means an internet service provider, cloud
19 service provider, wireless service provider, internet search
20 engine, or an affiliate or subsidiary of an internet service
21 provider, cloud service provider, wireless service provider, or
22 internet search engine.

23 7. "*Reasonable age verification*" means verifying the age of
24 an individual by using any of the following methods:

25 a. Government-issued identification.

26 b. Financial documents or other documents that are reliable
27 proxies for age.

28 c. Any other commercially reasonable and reliable method.

29 Sec. 2. NEW SECTION. **554I.2 Publication and distribution of**
30 **obscene material on the internet — age verification — civil**
31 **liability.**

32 1. A covered platform shall be held liable if the covered
33 platform fails to perform reasonable age verification of
34 individuals attempting to access obscene material published or
35 distributed by the covered platform and the failure allows access

1 by a minor to the obscene material.

2 2. Reasonable age verification required under subsection 1
3 may be conducted by a third party and may employ cryptographic
4 techniques such as zero knowledge proofs to preserve anonymity
5 and protect privacy.

6 3. a. A covered platform or third party that performs the
7 reasonable age verification required under subsection 1 shall not
8 retain an individual's identifying information after the covered
9 platform or third party completes the individual's reasonable age
10 verification.

11 b. A covered platform or third party that performs the
12 reasonable age verification required under subsection 1 shall
13 not distribute, sell, or otherwise disseminate an individual's
14 identifying information obtained through the covered platform's
15 or third party's performance of reasonable age verification.

16 4. A covered platform that violates subsection 1 shall be
17 subject to punitive damages resulting from the violation, plus
18 reasonable attorney fees and costs. Punitive damages shall not
19 exceed triple the aggregate amount of a plaintiff's reasonable
20 attorney fees and costs.

21 5. A covered platform or third party that violates subsection
22 3 shall be subject to punitive damages and actual damages
23 resulting from the violation, plus reasonable attorney fees and
24 costs. Punitive damages shall not exceed triple the aggregate
25 amount of a plaintiff's reasonable attorney fees and costs.

26 **Sec. 3. NEW SECTION. 554I.3 Limitations on liability.**

27 1. a. This chapter shall not be construed to impose
28 liability on a user of an interactive computer service on the
29 internet.

30 b. This chapter shall not be construed to impose liability on
31 a provider solely for providing access or connection to a covered
32 platform, or to obscene material on an internet site or in a
33 facility, system, or network not under the provider's control to
34 the extent the provider is not responsible for the creation of
35 the obscene material. For purposes of this paragraph, "access

1 or connection" includes but is not limited to transmitting,
2 downloading, providing intermediate storage for, and providing
3 access software for data.

4 2. The requirements of this chapter shall be enforced
5 exclusively through private civil actions. No direct or indirect
6 enforcement of this chapter may be taken or threatened by the
7 state or any political subdivision thereof.

8 EXPLANATION

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

11 This bill creates civil liability for certain commercial
12 entities who publish or distribute certain material on the
13 internet.

14 The bill defines "covered platform", "identifying
15 information", "information content provider", "interactive
16 computer service", "obscene material", "provider", and
17 "reasonable age verification".

18 The bill makes a covered platform liable if the covered
19 platform fails to perform reasonable age verification of
20 individuals attempting to access obscene material published or
21 distributed by the covered platform and the failure allows access
22 by a minor to the obscene material. Reasonable age verification
23 includes the use of government-issued identification, financial
24 documents or other documents that are reliable proxies for
25 age, or any other commercially reasonable and reliable method.
26 Reasonable age verification may be conducted by a third party,
27 and the bill permits the use of cryptographic techniques to
28 preserve anonymity and protect privacy. A covered platform or
29 third party that performs required reasonable age verification is
30 prohibited from retaining an individual's identifying information
31 after completing the individual's reasonable age verification,
32 and from distributing, selling, or disseminating an individual's
33 identifying information obtained through the performance of
34 reasonable age verification. A covered platform or third party
35 is subject to punitive and actual damages resulting from a

1 minor's access to obscene material, from the distribution, sale,
2 or other dissemination of an individual's identifying information
3 obtained through the performance of reasonable age verification,
4 or from the retention of identifying information, plus reasonable
5 attorney fees and costs.

6 Punitive damages for a violation of the bill's provisions
7 cannot exceed triple the aggregate amount of a plaintiff's
8 reasonable attorney fees and costs.

9 The bill's provisions are not to be construed as to impose
10 civil liability on a user of an interactive computer service on
11 the internet.

12 The bill's provisions are not to be construed as to impose
13 liability on a provider solely for providing access or connection
14 to a covered platform, or to obscene material on an internet site
15 or in a facility, system, or network not under the provider's
16 control to the extent the provider is not responsible for the
17 creation of the obscene material.

18 The bill may be enforced exclusively through private civil
19 actions, and the state and political subdivisions are prohibited
20 from enforcing the provisions of the bill.