

Senate File 443 - Introduced

SENATE FILE 443
BY COMMITTEE ON TECHNOLOGY

(SUCCESSOR TO SF 207)

A BILL FOR

1 An Act relating to certain commercial entities who publish or
2 distribute obscene material on the internet, and providing
3 civil penalties.

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

8 b. For purposes of this subsection, the presence alone of
9 obscene material on a commercial entity's internet site shall
10 not be construed to mean that the commercial entity's regular
11 course of trade or business is creating, hosting, or making
12 available obscene material on the internet. When determining
13 whether a commercial entity's regular course of trade or business
14 is creating, hosting, or making available obscene material on the
15 internet, a court shall consider all of the following:

16 (1) The amount of data that constitutes obscene material on
17 the commercial entity's internet site.

18 (2) The amount of data that constitutes obscene material on
19 the commercial entity's internet site in proportion to the total
20 amount of data on the commercial entity's internet site.

21 (3) The amount of user traffic to obscene material on the
22 commercial entity's internet site.

23 (4) The amount of user traffic to obscene material on the
24 commercial entity's internet site in proportion to all user
25 traffic on the commercial entity's internet site.

26 (5) The amount of revenue the commercial entity obtains from
27 obscene material on the commercial entity's internet site.

28 (6) The amount of revenue the commercial entity generates
29 from obscene material on the commercial entity's internet site in
30 proportion to all revenues the commercial entity generates.

31 (7) Any other factor the court deems relevant.

32 2. "Identifying information" means any representation of
33 information that permits the identity of an individual to whom
34 the information applies to be reasonably inferred by either
35 direct or indirect means.

1 3. "Information content provider" means the same as defined
2 in 47 U.S.C. §230.

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

5 5. "Obscene material" means the same as defined in section
6 728.1.

7 6. "Provider" means all of the following:

8 a. An internet service provider.

9 b. A cloud service provider.

10 c. A wireless service provider.

11 d. An internet search engine.

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

13 f. A telecommunications service as defined in 47 U.S.C. §153.

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

15 h. An affiliate or a subsidiary of an entity listed in
16 paragraph "a" through "g".

17 7. "Reasonable age verification" means verifying the age of
18 an individual by using any of the following methods:

19 a. Government-issued identification.

20 b. Financial documents or other documents that are reliable
21 proxies for age.

22 c. Any other commercially reasonable and reliable method.

23 **Sec. 2. NEW SECTION. 554I.2 Publication and distribution of**
24 **obscene material on the internet — age verification — civil**
25 **liability.**

26 1. A covered platform shall be held liable if the covered
27 platform fails to perform reasonable age verification of
28 individuals attempting to access obscene material published or
29 distributed by the covered platform.

30 2. Reasonable age verification required under subsection 1
31 may be performed by a third party subject to state jurisdiction,
32 and may employ cryptographic techniques such as zero knowledge
33 proofs to preserve anonymity and protect privacy.

34 3. a. A covered platform or third party that performs the
35 reasonable age verification required under subsection 1 shall not

1 retain an individual's identifying information after the covered
2 platform or third party completes the individual's reasonable age
3 verification.

4 b. A covered platform or third party that performs the
5 reasonable age verification required under subsection 1 shall
6 not distribute, sell, or otherwise disseminate an individual's
7 identifying information obtained through the covered platform's
8 or third party's performance of reasonable age verification.

9 Sec. 3. NEW SECTION. **554I.3 Enforcement — penalties.**

10 1. If the attorney general has reasonable belief that a
11 covered platform, or third party performing reasonable age
12 verification, is in violation of this chapter, the attorney
13 general has the sole authority to bring civil action to provide
14 for all of the following:

15 a. Enjoinment of further violations by the covered platform
16 or third party performing reasonable age verification.

17 b. Enforcement of compliance with this chapter.

18 c. Assessment of civil penalties in an amount not more than
19 ten thousand dollars for each violation of this chapter.

20 d. Other remedies permitted under law.

21 2. If the attorney general has reasonable belief that a
22 covered platform, or third party performing reasonable age
23 verification, is in violation of an injunction issued under this
24 section, the attorney general has the sole authority to bring
25 civil action to provide for civil penalties in an amount not more
26 than one hundred thousand dollars.

27 3. An individual that has knowledge of a violation of this
28 chapter may report the violation to the attorney general.

29 4. The attorney general shall establish an electronic
30 reporting system for the submission of reports pursuant to this
31 section.

32 Sec. 4. NEW SECTION. **554I.4 Limitations on liability.**

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

35 2. This chapter shall not be construed to impose liability on

1 a provider solely for providing access or connection to a covered
2 platform, or to obscene material on an internet site or in a
3 facility, system, or network not under the provider's control.
4 For purposes of this subsection, "access or connection" includes
5 but is not limited to transmitting, downloading, providing
6 intermediate storage for, and providing access software for data.

7 EXPLANATION

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

10 This bill relates to certain commercial entities who publish
11 or distribute certain material on the internet.

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

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

32 The bill's provisions are not to be construed as to impose
33 liability on a user of an interactive computer service on the
34 internet.

35 The bill's provisions are not to be construed as to impose

1 liability on a provider solely for providing access or connection
2 to a covered platform, or to obscene material on an internet site
3 or in a facility, system, or network not under the provider's
4 control.

5 If the attorney general has reasonable belief that a covered
6 platform, or third party, is in violation of the bill, the
7 attorney general may bring a civil action to enjoin further
8 violations, enforce compliance with the bill, assess a civil
9 penalty in an amount not more than \$10,000 for each violation,
10 and provide other remedies permitted by law. If the attorney
11 general has reasonable belief that a covered platform, or third
12 party, is in violation of an injunction issued under the bill,
13 the attorney general may bring a civil action to provide for
14 civil penalties in an amount not more than \$100,000.

15 The bill allows individuals with knowledge of a violation to
16 report the violation to the attorney general, and requires the
17 attorney general to establish an electronic reporting system for
18 the submission of reports of violations of the bill.