

By: Shaheen

H.B. No. 1181

Substitute the following for H.B. No. 1181:

By: Leach

C.S.H.B. No. 1181

A BILL TO BE ENTITLED

AN ACT

relating to restricting access to sexual material harmful to minors on an Internet website.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 129B to read as follows:

CHAPTER 129B. LIABILITY FOR ALLOWING MINORS TO ACCESS PORNOGRAPHIC MATERIAL

Sec. 129B.001. DEFINITIONS. In this chapter:

(1) "Commercial entity" includes a corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legally recognized business entity.

(2) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.

(3) "Minor" means an individual younger than 18 years of age.

(4) "News-gathering organization" includes:

(A) an employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, who is acting within the course and scope of that employment and can provide documentation of that employment with the newspaper, news publication, or news source; and

1           (B) an employee of a radio broadcast station,  
2 television broadcast station, cable television operator, or wire  
3 service who is acting within the course and scope of that employment  
4 and can provide documentation of that employment.

5           (5) "Publish" means to communicate or make information  
6 available to another person or entity on a publicly available  
7 Internet website.

8           (6) "Sexual material harmful to minors" includes any  
9 material that:

10           (A) the average person, applying contemporary  
11 community standards, would find, taking the material as a whole and  
12 with respect to minors, is designed to appeal to or pander to the  
13 prurient interest;

14           (B) in a manner patently offensive with respect  
15 to minors, exploits, is devoted to, or principally consists of  
16 descriptions of actual, simulated, or animated display or depiction  
17 of:

18                   (i) a person's pubic hair, anus, or genitals  
19 or the nipple of the female breast;

20                   (ii) touching, caressing, or fondling of  
21 nipples, breasts, buttocks, anuses, or genitals; or

22                   (iii) sexual intercourse, masturbation,  
23 sodomy, bestiality, oral copulation, flagellation, excretory  
24 functions, exhibitions, or any other sexual act; and

25           (C) taken as a whole, lacks serious literary,  
26 artistic, political, or scientific value for minors.

27           (7) "Transactional data" means a sequence of

1 information that documents an exchange, agreement, or transfer  
2 between an individual, commercial entity, or third party used for  
3 the purpose of satisfying a request or event. The term includes  
4 records from mortgage, education, and employment entities.

5 Sec. 129B.002. PUBLICATION OF MATERIAL HARMFUL TO MINORS.

6 (a) A commercial entity that knowingly and intentionally publishes  
7 or distributes material on an Internet website, including a social  
8 media platform, more than one-third of which is sexual material  
9 harmful to minors, shall use reasonable age verification methods as  
10 described by Section 129B.003 to verify that an individual  
11 attempting to access the material is 18 years of age or older.

12 (b) A commercial entity that performs the age verification  
13 required by Subsection (a) or a third party that performs the age  
14 verification required by Subsection (a) may not retain any  
15 identifying information of the individual after access has been  
16 granted to the material.

17 (c) A commercial entity that knowingly and intentionally  
18 publishes or distributes material on an Internet website that is  
19 found to have violated this section is liable to the parent or  
20 guardian of the minor for damages resulting from a minor's access to  
21 the material, including court costs and reasonable attorney's fees  
22 as ordered by the court.

23 (d) A commercial entity that knowingly and intentionally  
24 publishes or distributes material on an Internet website, or a  
25 third party that performs the age verification required by  
26 Subsection (a) that is found to have knowingly retained identifying  
27 information of an individual after access has been granted to the

1 individual is liable to the individual for damages resulting from  
2 retaining the identifying information, including court costs and  
3 reasonable attorney's fees as ordered by the court.

4 Sec. 129B.003. REASONABLE AGE VERIFICATION METHODS. (a)  
5 In this section, "digital identification" means information stored  
6 on a digital network that may be accessed by a commercial entity and  
7 that serves as proof of the identity of an individual.

8 (b) A commercial entity that knowingly and intentionally  
9 publishes or distributes material on an Internet website or a third  
10 party that performs age verification under this chapter shall  
11 require an individual to:

12 (1) provide digital identification; or  
13 (2) comply with a commercial age verification system  
14 that verifies age using:

15 (A) government-issued identification; or  
16 (B) a commercially reasonable method that relies  
17 on public or private transactional data to verify the age of an  
18 individual.

19 Sec. 129B.004. APPLICABILITY OF CHAPTER. (a) This chapter  
20 does not apply to a bona fide news or public interest broadcast,  
21 website video, report, or event and may not be construed to affect  
22 the rights of a news-gathering organization.

23 (b) An Internet service provider, or its affiliates or  
24 subsidiaries, a search engine, or a cloud service provider may not  
25 be held to have violated this chapter solely for providing access or  
26 connection to or from a website or other information or content on  
27 the Internet or on a facility, system, or network not under that

1 provider's control, including transmission, downloading,  
2 intermediate storage, access software, or other services to the  
3 extent the provider or search engine is not responsible for the  
4 creation of the content that constitutes sexual material harmful to  
5 minors.

6 SECTION 2. This Act takes effect September 1, 2023.