

AN ACT

relating to the publication or distribution of sexual material harmful to minors on an Internet website; providing a civil penalty.

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;

1 and

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

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

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

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

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

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

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

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

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

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

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

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

13           (b) A commercial entity that performs the age verification  
14 required by Subsection (a) or a third party that performs the age  
15 verification required by Subsection (a) may not retain any  
16 identifying information of the individual.

17           Sec. 129B.003. REASONABLE AGE VERIFICATION METHODS. (a)

18 In this section, "digital identification" means information stored  
19 on a digital network that may be accessed by a commercial entity and  
20 that serves as proof of the identity of an individual.

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

25                   (1) provide digital identification; or

26                   (2) comply with a commercial age verification system  
27 that verifies age using:

1           (A) government-issued identification; or

2           (B) a commercially reasonable method that relies  
3 on public or private transactional data to verify the age of an  
4 individual.

5           Sec. 129B.004. SEXUAL MATERIALS HEALTH WARNINGS. A  
6 commercial entity required to use reasonable age verification  
7 methods under Section 129B.002(a) shall:

8           (1) display the following notices on the landing page  
9 of the Internet website on which sexual material harmful to minors  
10 is published or distributed and all advertisements for that  
11 Internet website in 14-point font or larger:

12           "TEXAS HEALTH AND HUMAN SERVICES WARNING: Pornography  
13 is potentially biologically addictive, is proven to harm human  
14 brain development, desensitizes brain reward circuits, increases  
15 conditioned responses, and weakens brain function."

16           "TEXAS HEALTH AND HUMAN SERVICES WARNING: Exposure to  
17 this content is associated with low self-esteem and body image,  
18 eating disorders, impaired brain development, and other emotional  
19 and mental illnesses."

20           "TEXAS HEALTH AND HUMAN SERVICES WARNING: Pornography  
21 increases the demand for prostitution, child exploitation, and  
22 child pornography."; and

23           (2) display the following notice at the bottom of  
24 every page of the Internet website in 14-point font or larger:

25           "U.S. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

26                           HELPLINE:

27                           1-800-662-HELP (4357)

1 THIS HELPLINE IS A FREE, CONFIDENTIAL INFORMATION SERVICE (IN  
2 ENGLISH OR SPANISH) OPEN 24 HOURS PER DAY, FOR INDIVIDUALS AND  
3 FAMILY MEMBERS FACING MENTAL HEALTH OR SUBSTANCE USE DISORDERS.  
4 THE SERVICE PROVIDES REFERRAL TO LOCAL TREATMENT FACILITIES,  
5 SUPPORT GROUPS, AND COMMUNITY-BASED ORGANIZATIONS."

6 Sec. 129B.005. APPLICABILITY OF CHAPTER. (a) This chapter  
7 does not apply to a bona fide news or public interest broadcast,  
8 website video, report, or event and may not be construed to affect  
9 the rights of a news-gathering organization.

10 (b) An Internet service provider, or its affiliates or  
11 subsidiaries, a search engine, or a cloud service provider may not  
12 be held to have violated this chapter solely for providing access or  
13 connection to or from a website or other information or content on  
14 the Internet or on a facility, system, or network not under that  
15 provider's control, including transmission, downloading,  
16 intermediate storage, access software, or other services to the  
17 extent the provider or search engine is not responsible for the  
18 creation of the content that constitutes sexual material harmful to  
19 minors.

20 Sec. 129B.006. CIVIL PENALTY; INJUNCTION. (a) If the  
21 attorney general believes that an entity is knowingly violating or  
22 has knowingly violated this chapter and the action is in the public  
23 interest, the attorney general may bring an action in a Travis  
24 County district court or the district court in the county in which  
25 the principal place of business of the entity is located in this  
26 state to enjoin the violation, recover a civil penalty, and obtain  
27 other relief the court considers appropriate.

1        (b) A civil penalty imposed under this section for a  
2 violation of Section 129B.002 or 129B.003 may be in an amount equal  
3 to not more than the total, if applicable, of:

4            (1) \$10,000 per day that the entity operates an  
5 Internet website in violation of the age verification requirements  
6 of this chapter;

7            (2) \$10,000 per instance when the entity retains  
8 identifying information in violation of Section 129B.002(b); and

9            (3) if, because of the entity's violation of the age  
10 verification requirements of this chapter, one or more minors  
11 accesses sexual material harmful to minors, an additional amount of  
12 not more than \$250,000.

13        (c) The amount of a civil penalty under this section shall  
14 be based on:

15            (1) the seriousness of the violation, including the  
16 nature, circumstances, extent, and gravity of the violation;

17            (2) the history of previous violations;

18            (3) the amount necessary to deter a future violation;

19            (4) the economic effect of a penalty on the entity on  
20 whom the penalty will be imposed;

21            (5) the entity's knowledge that the act constituted a  
22 violation of this chapter; and

23            (6) any other matter that justice may require.

24        (d) The attorney general may recover reasonable and  
25 necessary attorney's fees and costs incurred in an action under  
26 this section.

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

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1181 was passed by the House on May 9, 2023, by the following vote: Yeas 141, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1181 on May 25, 2023, by the following vote: Yeas 133, Nays 1, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1181 was passed by the Senate, with amendments, on May 19, 2023, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor