

E AND R AMENDMENTS TO LB 1092

Introduced by Ballard, 21, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. Sections 1 to 5 of this act shall be known and may be  
4 cited as the Online Age Verification Liability Act.

5           Sec. 2. For purposes of the Online Age Verification Liability Act:

6           (1) Commercial entity includes a corporation, limited liability  
7 company, partnership, limited partnership, sole proprietorship, or other  
8 legally recognized entity;

9           (2) Digitized identification card means a data file that contains  
10 all of the data elements visible on the face and back of a government-  
11 issued operator's license or identification card and displays the current  
12 status of the license or card;

13           (3) Distribute means to issue, sell, give, provide, deliver,  
14 transfer, transmute, circulate, or disseminate by any means;

15           (4) Internet utility means an Internet service provider, a search  
16 engine, or a cloud service provider or an affiliate or subsidiary of any  
17 such provider or search engine;

18           (5) Material harmful to minors means any material to which all of  
19 the following apply:

20           (a) The average person, applying contemporary community standards,  
21 would find, taking the material as a whole and with respect to its  
22 consumption by minors, that such material is designed to appeal to or  
23 pander to the prurient interest;

24           (b) The material is patently offensive to prevailing standards in  
25 the adult community as a whole with respect to its consumption by minors;  
26 and

27           (c) The material taken as a whole lacks serious literary, artistic,

1 political, or scientific value for minors;

2 (6) Minor means any person under eighteen years of age;

3 (7) News-gathering organization means any of the following:

4 (a) A newspaper, news publication, or news source, printed or on an  
5 online or mobile platform, of current news and public interest, or any  
6 employee of such organization while acting within the scope of employment  
7 for such organization; or

8 (b) A radio broadcast station, television broadcast station, cable  
9 television operator, or wire service operator, or any employee of such  
10 organization while acting within the scope of employment for such  
11 organization;

12 (8) Publish means to communicate or make information available to  
13 another person or entity on a publicly available Internet website;

14 (9) Reasonable age verification method means a process to verify  
15 that the person attempting to access the material is at least eighteen  
16 years of age or older through the use of (i) a digitized identification  
17 card, including a digital copy of a driver's license, (ii) a government-  
18 issued identification, (iii) a financial document or other document that  
19 is a reliable proxy for age, or (iv) any commercially reasonable method  
20 that relies on public or private transactional data to verify the age of  
21 the person attempting to access the material;

22 (10) Substantial portion means an amount which is more than one-  
23 third of the total material on a website; and

24 (11) Transactional data means a sequence of information that  
25 documents an exchange, agreement, or transfer between an individual,  
26 commercial entity, or third-party used for the purpose of satisfying a  
27 request or event and includes records from mortgage, education, and  
28 employment entities.

29 Sec. 3. (1) A commercial entity shall not knowingly and  
30 intentionally publish or distribute material harmful to minors on the  
31 Internet on a website that contains a substantial portion of such

1 material unless the entity uses a reasonable age verification method to  
2 verify the age of an individual attempting to access the material.

3 (2) A commercial entity or third party that performs an age  
4 verification required by this section shall not retain any identifying  
5 information of the individual after access has been granted to the  
6 material.

7 Sec. 4. (1) A person aggrieved by a violation of section 3 of this  
8 act may bring a civil action against the commercial entity or third party  
9 which engaged in that violation to recover such relief as may be  
10 appropriate.

11 (2) In an action under this section, appropriate relief includes:

12 (a) Such preliminary and other equitable or declaratory relief as  
13 may be appropriate;

14 (b) Damages under subsection (3) of this section; and

15 (c) At the discretion of the court, reasonable attorney's fees and  
16 other litigation costs reasonably incurred.

17 (3)(a) A minor or a parent or guardian of such minor aggrieved by a  
18 violation of subsection (1) of section 3 of this act may recover actual  
19 damages caused by such violation.

20 (b) An individual whose information was retained in violation of  
21 subsection (2) of section 3 of this act may recover actual damages caused  
22 by such violation.

23 Sec. 5. (1) The Online Age Verification Liability Act shall not  
24 apply to any news-gathering organization or any bona fide news or public  
25 interest broadcast, website video, or report.

26 (2) An Internet utility does not violate the Online Age Verification  
27 Liability Act solely by providing access or connection to or from a  
28 website or other information or content on the Internet or a facility,  
29 system, or network not under the Internet utility's control, including  
30 transmitting, downloading, or storing data or providing access, to the  
31 extent that such Internet utility is not responsible for the creation of

1 the content that constitutes material harmful to minors.