

AMENDMENTS TO LB1092

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 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; and

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

27 Sec. 3. (1) A commercial entity shall not knowingly and
28 intentionally publish or distribute material harmful to minors on the
29 Internet on a website that is used in the regular course of business to
30 create, host, or make available such material unless the entity uses a
31 reasonable age verification method to verify the age of an individual

1 attempting to access the material.

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

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

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

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

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

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

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

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

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

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