

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1092

FINAL READING

Introduced by Murman, 38; Aguilar, 35; Albrecht, 17; Armendariz, 18; Ballard, 21; Brewer, 43; Clements, 2; DeKay, 40; Dorn, 30; Erdman, 47; Halloran, 33; Hardin, 48; Holdcroft, 36; Ibach, 44; Linehan, 39; Lippincott, 34; Lowe, 37; Meyer, 41; von Gillern, 4; Dover, 19.

Read first time January 09, 2024

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to civil liability; to adopt the Online Age
- 2 Verification Liability Act.
- 3 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

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

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

25 (c) The material taken as a whole lacks serious literary, artistic,
26 political, or scientific value for minors;

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

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

29 (a) A newspaper, news publication, or news source, printed or on an
30 online or mobile platform, of current news and public interest, or any
31 employee of such organization while acting within the scope of employment

1 for such organization; or

2 (b) A radio broadcast station, television broadcast station, cable
3 television operator, or wire service operator, or any employee of such
4 organization while acting within the scope of employment for such
5 organization;

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

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

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

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

23 Sec. 3. (1) A commercial entity shall not knowingly and
24 intentionally publish or distribute material harmful to minors on the
25 Internet on a website that contains a substantial portion of such
26 material unless the entity uses a reasonable age verification method to
27 verify the age of an individual attempting to access the material.

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

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

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

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

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

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

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

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

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

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