

SENATE BILL NO. 191

March 20, 2025, Introduced by Senator ALBERT and referred to Committee on Regulatory Affairs.

A bill to regulate material harmful to minors; to provide for the powers and duties of certain state governmental officers and entities; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "material harmful to
2 minors regulation act".

3 Sec. 2. As used in this act:

4 (a) "Commercial entity" includes a corporation, limited
5 liability company, partnership, limited partnership, sole

1 proprietorship, or other legally recognized entity.

2 (b) "Department" means the department of attorney general.

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

5 (d) "Internet" means the international computer network of
6 both federal and nonfederal interoperable packet switched data
7 networks.

8 (e) "Material harmful to minors" means all of the following:

9 (i) Material that the average individual, applying contemporary
10 community standards, would find, taking the material as a whole and
11 with respect to minors, is designed to appeal to, or is designed to
12 pander to, the prurient interest.

13 (ii) Any of the following material that exploits, is devoted
14 to, or principally consists of descriptions of actual, simulated,
15 or animated display or depiction of any of the following, in a
16 manner patently offensive with respect to minors:

17 (A) Pubic hair, anus, vulva, genitals, or nipple of the female
18 breast.

19 (B) Touching, caressing, or fondling of nipples, breasts,
20 buttocks, anuses, or genitals.

21 (C) Sexual intercourse, masturbation, sodomy, bestiality, oral
22 copulation, flagellation, excretory functions, exhibitions, or any
23 other sexual act.

24 (iii) Material that taken as a whole lacks serious literary,
25 artistic, political, or scientific value for minors.

26 (f) "Minor" means an individual who is less than 18 years of
27 age.

28 (g) "News-gathering organization" means either of the
29 following:

1 (i) An employee of a newspaper, news publication, or news
2 source, printed or on an online or mobile platform, of current news
3 and public interest, while operating as an employee, who can
4 provide documentation of employment with the newspaper, news
5 publication, or news source.

6 (ii) An employee of a radio broadcast station, television
7 broadcast station, cable television operator, or wire service while
8 operating as an employee, who can provide documentation of
9 employment with the radio broadcast station, television broadcast
10 station, cable television operator, or wire service.

11 (h) "Publish" means to communicate or make information
12 available to another individual or entity on a publicly available
13 internet website.

14 (i) "Reasonable age verification methods" includes verifying
15 that an individual seeking to access material harmful to minors is
16 18 years of age or older by using either of the following methods:

17 (i) Providing a digitized identification card.

18 (ii) Requiring the individual to comply with a commercial age
19 verification system that verifies an individual's age in 1 or both
20 of the following ways:

21 (A) By reviewing a government-issued identification.

22 (B) By using a commercially reasonable method that relies on
23 public or private transactional data to verify the age of the
24 individual.

25 (j) "Substantial portion" means that more than 33.33% of the
26 total material on a website is material harmful to minors.

27 (k) "Transactional data" means a sequence of information that
28 documents an exchange, agreement, or transfer between an
29 individual, commercial entity, or third party used for the purpose

1 of satisfying a request or event. Transactional data includes, but
2 is not limited to, records from mortgage, education, and employment
3 entities.

4 Sec. 3. (1) A commercial entity that knowingly and
5 intentionally publishes or distributes material harmful to minors
6 on the internet from a website that contains a substantial portion
7 of material harmful to minors shall not allow an individual to
8 access the material harmful to minors unless the commercial entity
9 performs reasonable age verification methods to verify that the
10 individual is 18 years of age or older.

11 (2) A commercial entity that knowingly and intentionally
12 publishes or distributes material harmful to minors on the internet
13 from a website that contains less than a substantial portion of
14 material harmful to minors shall do both of the following:

15 (a) Block access to known mature content if reasonable age
16 verification methods indicate that an individual is not 18 years of
17 age or older.

18 (b) Provide a disclaimer to a user or visitor before
19 displaying known mature content.

20 (3) A commercial entity or third party that performs the
21 required age verification under subsection (1) or (2) shall not
22 retain any identifying information of the individual after access
23 has been granted to the material harmful to minors.

24 (4) A commercial entity that violates this act may be liable
25 in a civil action for damages resulting from a minor's accessing
26 the material harmful to minors, including court costs and
27 reasonable attorney fees as ordered by the court.

28 (5) A commercial entity that is found to have knowingly
29 retained identifying information of an individual after access to

1 the material harmful to minors has been granted to the individual
2 may be liable in a civil action for damages resulting from
3 retaining the identifying information of the individual, including
4 court costs and reasonable attorney fees as ordered by the court.

5 Sec. 5. (1) This act does not apply to a bona fide news or
6 public interest broadcast, website video, report, or event and does
7 not affect the rights of a news-gathering organization.

8 (2) An internet service provider, or an internet service
9 provider's affiliates or subsidiaries, search engine, or cloud
10 service provider does not violate this act solely for providing
11 access or connection to or from a website or other information or
12 content on the internet or a facility, system, or network not under
13 that provider's control including transmission, downloading,
14 intermediate storage, access software, or other to the extent that
15 the provider is not responsible for the creation of the content of
16 the communication that constitutes material harmful to minors.

17 Sec. 7. (1) The department has exclusive authority to enforce
18 this act.

19 (2) Before initiating a civil action, the department shall
20 provide an entity alleged with violating this act with 45 days'
21 written notice identifying the specific provisions of this act the
22 department alleges the entity is violating. If within 45 days after
23 receiving the written notice the entity cures the noticed violation
24 and provides the department with an express written statement that
25 the alleged violations have been cured, the department shall not
26 initiate a civil action.

27 (3) If an entity continues to violate this act in breach of an
28 express written statement provided to the department under
29 subsection (2) or fails to provide an express written statement

1 under subsection (2), the department may initiate a civil action
2 seeking damages of not more than \$10,000.00 per violation. Damages
3 under this subsection begin accruing after the completion of the
4 45-day period to cure under subsection (2).