

GREEN SHEET REDIGEST

HB 142

2022 Regular Session

Schlegel

**LIABILITY/CIVIL: Provides for liability for publishers and distributors of material harmful to minors**

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DIGEST

Proposed law provides for legislative intent including the public health concern and influence of pornography on minors.

Proposed law provides for a private right of action against commercial entities that publish or distribute material harmful to minors and fail to place reasonable verification methods to verify the age of individuals attempting to access the material.

Proposed law provides that reasonable verification methods include the following:

- (1) Digitized Identification Card as defined in R.S. 51:3211.
- (2) Compliance with a commercial age verification system that verifies in one or more of the following ways:
  - (a) Government-issued identification.
  - (b) Any commercial reasonable method that relies on public or private transactional data to verify the age the person attempting to access the information is at least eighteen years of age or older.

Present law (R.S. 51:3211) defines "digitized identification card" as a data file available on any mobile device which has connectivity to the internet through a state-approved application that allows the mobile device to download the data file from the Dept. of Public Safety and Corrections that contains all of the data elements visible on a license or identification card and displays the current status of the license or identification card.

Proposed law provides that the commercial entity or a third party shall not retain any identifying information after access has been granted to the individual.

Proposed law provides for damages, including court costs and reasonable attorney fees.

Proposed law exempts bona fide news or public interest broadcasts, website videos, reports, or events.

Proposed law exempts internet service providers or their affiliates or subsidiaries, search engines, or cloud service providers.

Proposed law provides definitions for "commercial entity", "distribute", "internet", "material harmful to minors", "minor", "news-gathering organization", "publish", "reasonable verification methods", "substantial portion", and "transactional data".

(Adds R.S. 9:2800.28)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Add that the website must be comprised of a substantial portion of materials harmful to minors.

2. Define "substantial portion".
3. Exempt internet service providers from being held liable under proposed law.
4. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Make semantic changes to the sentence structure regarding liability of the commercial entity for failing to perform reasonable age verification.
2. Change the definition of "substantial portion".
3. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Removes the exception allowing an individual's identifying information to be retained when contractually agreed upon by the commercial entity or third party and the individual.
2. Adds that a commercial entity which knowingly retain an individual's identifying information after access has been granted shall be liable to the individual for damages resulting from the entity retaining the identifying information which includes court costs and reasonable attorney fees.
3. Removes an award of exemplary damages for violation of proposed law.
4. Adds that search engine and aloud service provider are also exempt from proposed law.
5. Clarifies that an employee in the definition of "news gathering organization" means while operating as an employee.
6. Adds an effective date.
7. Makes technical changes.