

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 142

2022 Regular Session

Schlegel

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

Synopsis of Senate Amendments

1. Removes provision permitting a commercial entity or third party to retain identifying information if contractually agreed upon.
2. Provides for liability for commercial entities which knowingly retain an individual's identifying information after access has been granted. Provides for court costs and reasonable attorney fees.
3. Removes potential award of exemplary damages for violation of proposed law.
4. Exempts from liability search engines and cloud service providers who provide access to a website not under that provider's control.
5. Provides that proposed law shall not be construed to affect the rights of employees of news-gathering organizations while operating as an employee.
6. Adds an effective date of January 1, 2023.
7. Makes technical changes.

Digest of Bill as Finally Passed by Senate

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 18 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 who provide access to or from a website or content on the internet to the extent that such provider is not responsible for the creation of material harmful to minors.

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".

Effective Jan. 1, 2023.

(Adds R.S. 9:2800.28)