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SYNOPSIS:

This bill would provide legislative findings regarding the public health crisis caused by pornography.

This bill would prohibit the distribution of material harmful to minors under 18 years of age.

This bill would require distributors of material harmful to minors to take certain reasonable measures to ensure their published material is not distributed to minor children by use of age-verification procedures and would provide penalties for violations.

This bill would prohibit a distributor of material harmful to minors which performs any required online age verification from retaining any personally identifying information of the individual accessing the material and would provide penalties for a violation.

This bill would require distributors of material harmful to minors to pay a licensing fee to distribute pornography in this state and would provide for the distribution of the fee.

This bill would provide penalties for violations.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of



29 local funds from becoming effective with regard to a
30 local governmental entity without enactment by a 2/3
31 vote unless: it comes within one of a number of
32 specified exceptions; it is approved by the affected
33 entity; or the Legislature appropriates funds, or
34 provides a local source of revenue, to the entity for
35 the purpose.

36 The purpose or effect of this bill would be to
37 require a new or increased expenditure of local funds
38 within the meaning of the amendment. However, the bill
39 does not require approval of a local governmental
40 entity or enactment by a 2/3 vote to become effective
41 because it comes within one of the specified exceptions
42 contained in the amendment.

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A BILL
TO BE ENTITLED
AN ACT

50 Relating to consumer protection; to provide legislative
51 findings; to provide definitions; to provide prohibitions on
52 the online distribution of material harmful to minors; to
53 provide registration and age-verification requirements; to
54 prohibit the retention of certain personally identifying
55 information; to provide civil and criminal penalties for
56 violations; and in connection therewith would have as its



57 purpose or effect the requirement of a new or increased
58 expenditure of local funds within the meaning of Section
59 111.05 of the Constitution of Alabama of 2022.

60 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

61 Section 1. The Legislature finds and declares the
62 following:

63 (1) The pervasive use of pornography is creating a
64 public health crisis.

65 (2) Pornography is contributing to the
66 hypersexualization of children and teens in our society.

67 (3) Due to advances in technology and the universal
68 availability of the Internet, young children are more easily
69 exposed to pornography than ever before, with the average age
70 of exposure now being only 11 to 12 years of age.

71 (4) Pornography treats people as objects and
72 commodities for the viewer's use.

73 (5) Pornography normalizes violence and abuse, often
74 depicts rape and abuse as being harmless fun, and increases
75 the demand for sex trafficking, prostitution, and child
76 pornography.

77 (6) Pornography is a public health crisis leading to a
78 broad spectrum of individual and public health impacts and
79 societal harms. This state has a compelling governmental
80 interest to take action, and this act serves as the most
81 narrowly tailored approach to prevent pornography exposure and
82 addiction to children and to educate individuals and families
83 concerning its very serious harms.

84 Section 2. As used in this act, the following terms



85 have the following meanings:

86 (1) ACTIVATE. The process of powering on a device and
87 associating the device with a new user account.

88 (2) COMMERCIAL ENTITY. The term includes corporations,
89 limited liability companies, partnerships, limited
90 partnerships, sole proprietorships, or other legally
91 recognized entities.

92 (3) DISTRIBUTE. To issue, sell, give, provide, deliver,
93 transfer, circulate, or disseminate online.

94 (4) DIVISION. The Consumer Protection Division of the
95 Office of the Attorney General.

96 (5) FILTER. Software installed on a device that is
97 capable of preventing the device from accessing or displaying
98 material that is harmful to minors through browsers or search
99 engines.

100 (6) HARMFUL TO MINORS. The term as defined under
101 Section 13A-12-200.1, Code of Alabama 1975.

102 (7) MINOR. An individual under 18 years of age.

103 (8) NEWS-GATHERING ORGANIZATION. Any of the following:

104 a. A newspaper, news publication, or news source,
105 printed or on an online platform, of current news and public
106 interest.

107 b. A radio broadcast station, television broadcast
108 station, or cable television operator.

109 (9) PUBLISH. To communicate or make information
110 available to another person on a publicly available Internet
111 website.

112 (10) REASONABLE AGE-VERIFICATION METHODS. Verifying



113 that the individual seeking to access the material is 18 years
114 of age or older by requiring the person attempting to access
115 the material to comply with a commercial age-verification
116 system that verifies age in any commercially reasonable method
117 that relies on public or private transactional data to verify
118 the age of the individual attempting to access the information
119 is at least 18 years of age or older.

120 (11) SMART PHONE. An electronic device that combines a
121 cellular phone with a handheld computer, typically offering
122 Internet access through a browser or search engine, data
123 storage, and text and email capabilities.

124 (12) SUBSTANTIAL PORTION. More than 33 1/3 percent of
125 total material on a website.

126 (13) TABLET. A mobile device that is equipped with a
127 mobile operating system, touchscreen display, and rechargeable
128 battery, and that has ability to support wireless access to
129 the Internet.

130 (14) TRANSACTIONAL DATA. A sequence of information that
131 documents an exchange, agreement, or transfer between an
132 individual, commercial entity, or third party used for the
133 purpose of satisfying a request or event. The term includes,
134 but is not limited to, records from mortgage, education, and
135 employment entities.

136 Section 3. (a) Any commercial entity that knowingly and
137 intentionally publishes or distributes material harmful to a
138 minor on the Internet from a website that contains a
139 substantial portion of material harmful to minors shall be
140 held liable if the entity fails to perform reasonable age-



141 verification methods to verify the age of individuals
142 attempting to access the material.

143 (b) A commercial entity that is found to have violated
144 this section shall be liable to an individual for damages
145 resulting from a minor accessing the material harmful to
146 minors, including court costs and reasonable attorney fees as
147 ordered by the court.

148 Section 4. (a) Any commercial entity or third party
149 that performs the required age-verification under this act
150 shall not retain any personally identifying information of the
151 individual after access has been granted to the material.

152 (b) A commercial entity that is found to have knowingly
153 retained identifying information of the individual, as
154 prohibited in subsection (a), shall be liable to the
155 individual for damages resulting from retaining the
156 identifying information, including court costs and reasonable
157 attorney fees as ordered by the court.

158 Section 5. Nothing in this act shall apply to a bona
159 fide broadcast, website video, report, or event of a
160 news-gathering organization and shall not be construed to
161 affect the rights of any news-gathering organization.

162 Section 6. No Internet service provider, or its
163 affiliates or subsidiaries, search engine, or cloud service
164 provider shall be held to have violated this act solely for
165 providing access or connection to or from a website or other
166 information or content on the Internet or a facility, system,
167 or network not under that provider's control, including
168 transmission, downloading, intermediate storage, or access



169 software to the extent the provider is not responsible for the
170 creation of the content of the communication that constitutes
171 material harmful to minors.

172 Section 7. (a) A commercial entity described in Section
173 3(a) shall do both of the following:

174 (1) Register with the division and pay to the division
175 a one-time registration fee and an annual license fee each
176 year thereafter. The division, by rule, may establish the
177 required fees.

178 (2) Certify to the division that the commercial entity
179 meets the age-verification requirements of Section 3.

180 (b) Any fees collected under this section shall be
181 deposited as follows and shall be budgeted and allotted in
182 accordance with Sections 41-4-80 through 41-4-96, Code of
183 Alabama 1975, and Sections 41-19-1 through 41-19-12, Code of
184 Alabama 1975, but shall not be limited by the fiscal year
185 appropriation cap:

186 (1) Fifty percent of fees collected shall be deposited
187 into the State General Fund to the credit of the Office of the
188 Attorney General.

189 (2) Fifty percent of fees collected shall be deposited
190 into the Special Mental Health Trust Fund in the State
191 Treasury.

192 (c) The Office of the Attorney General may adopt rules
193 to implement and administer this section.

194 Section 8. (a) Any person that engages in any act or
195 practice that violates Section 3 or Section 4 shall be liable
196 for a civil penalty of up to two thousand dollars (\$2,000) for



197 each violation.

198 (b) The Office of the Attorney General may recover the
199 civil penalty by either of the following:

200 (1) Civil action against the person engaging in the
201 violation.

202 (2) Agreement and settlement of a civil action filed by
203 stipulation of terms by the person engaging in the violation
204 and the director of the division by authority of the Attorney
205 General, and by payment of any agreed upon amount by the
206 person against whom the claim was filed.

207 Section 9. (a) If the Attorney General has reason to
208 believe that a person has engaged in, or is engaging in, a
209 practice that violates Section 3 or Section 4, he or she may
210 administer oaths and affirmations, subpoena witnesses or
211 matter, and collect evidence. The subpoena shall inform the
212 party served of his or her rights under this subsection.

213 (b) The Attorney General may apply for an emergency
214 injunction or other necessary relief to enjoin any violation
215 of Section 3 or Section 4 until the violation is cured.

216 Section 10. (a) In any civil action or investigation
217 involving a violation of Section 3 or Section 4, except as
218 provided in subsection (b), the Office of the Attorney General
219 shall receive reasonable attorney fees and costs from the
220 nonprevailing party.

221 (b) In any civil litigation initiated by the division
222 resulting in a judgment or administrative order, the court may
223 award to the prevailing party reasonable attorney fees and
224 costs if the court finds that there was a complete absence of



225 a justiciable issue of either law or fact raised by the losing
226 party or if the court finds bad faith on the part of the
227 losing party.

228 (c) The attorney for the prevailing party shall submit
229 a sworn affidavit of his or her time spent on the case and his
230 or her costs incurred.

231 Section 11. In addition to any other penalty, any
232 violation of Section 3 or Section 4 shall be considered a
233 violation of the Deceptive Trade Practices Act, Chapter 19,
234 Title 8, Code of Alabama 1975.

235 Section 12. The provisions of this act are severable.
236 If any part of this act is declared invalid or
237 unconstitutional, that declaration shall not affect the part
238 which remains.

239 Section 13. Although this bill would have as its
240 purpose or effect the requirement of a new or increased
241 expenditure of local funds, the bill is excluded from further
242 requirements and application under Section 111.05 of the
243 Constitution of Alabama of 2022, because the bill defines a
244 new crime or amends the definition of an existing crime.

245 Section 14. This act shall become effective on the
246 first day of the third month following its passage and
247 approval by the Governor, or its otherwise becoming law.