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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



28 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  
141 age-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.