

HOUSE BILL 394

D3

5lr0834

By: **Delegates Grammer, Arian, Chisholm, Fisher, M. Morgan, Nawrocki, and Szeliga**

Introduced and read first time: January 16, 2025

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Distribution of Obscene Material to Minors and Age Verification**
3 **Information**

4 FOR the purpose of establishing that a commercial entity that distributes obscene material
5 to minors on the Internet from certain websites is liable for certain damages;
6 prohibiting a commercial entity or third party that performs a certain age
7 verification of an individual from retaining any identifying information of an
8 individual under certain circumstances; and generally relating to the distribution of
9 obscene material to minors.

10 BY adding to

11 Article – Courts and Judicial Proceedings

12 Section 3–2601 and 3–2602 to be under the new subtitle “Subtitle 26. Distribution of
13 Obscene Material to Minors”

14 Annotated Code of Maryland

15 (2020 Replacement Volume and 2024 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Courts and Judicial Proceedings**

19 **SUBTITLE 26. DISTRIBUTION OF OBSCENE MATERIAL TO MINORS.**

20 **3–2601.**

21 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(B) "COMMERCIAL ENTITY" MEANS A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, LIMITED PARTNERSHIP, OR SOLE PROPRIETORSHIP, OR ANY OTHER LEGALLY RECOGNIZED ENTITY.

(C) "DISTRIBUTE" MEANS TO ISSUE, SELL, GIVE, PUBLISH, PROVIDE, DELIVER, TRANSFER, TRANSMIT, CIRCULATE, OR DISSEMINATE BY ANY MEANS.

(D) "NEWS-GATHERING ORGANIZATION EMPLOYEE" MEANS:

(1) AN EMPLOYEE OF A NEWSPAPER, NEWS PUBLICATION, OR NEWS SOURCE, WHETHER IN PRINT OR ON AN ONLINE OR MOBILE PLATFORM, OF CURRENT NEWS AND PUBLIC INTEREST, WHILE OPERATING AS AN EMPLOYEE, WHO CAN PROVIDE DOCUMENTATION OF THE EMPLOYMENT; OR

(2) AN EMPLOYEE OF A RADIO BROADCAST STATION, TELEVISION BROADCAST STATION, CABLE TELEVISION OPERATOR, OR WIRE SERVICE WHILE OPERATING AS AN EMPLOYEE, WHO CAN PROVIDE DOCUMENTATION OF THE EMPLOYMENT.

(E) "OBSCENE" HAS THE MEANING STATED IN § 11-203 OF THE CRIMINAL LAW ARTICLE.

(F) "REASONABLE AGE VERIFICATION METHODS" INCLUDES VERIFYING THAT A PERSON SEEKING TO ACCESS MATERIAL IS AT LEAST 18 YEARS OLD BY REQUIRING THE PERSON ATTEMPTING TO ACCESS THE MATERIAL TO COMPLY WITH A COMMERCIAL AGE VERIFICATION SYSTEM THAT VERIFIES IN AT LEAST ONE OF THE FOLLOWING WAYS:

(1) GOVERNMENT-ISSUED IDENTIFICATION; OR

(2) ANY COMMERCIALLY REASONABLE METHOD THAT RELIES ON PUBLIC OR PRIVATE TRANSACTIONAL DATA TO VERIFY THAT THE PERSON ATTEMPTING TO ACCESS THE INFORMATION IS AT LEAST 18 YEARS OLD.

(G) "SUBSTANTIAL PORTION" MEANS MORE THAN ONE-THIRD OF THE TOTAL MATERIAL ON A WEBSITE.

(H) (1) "TRANSACTIONAL DATA" MEANS A SEQUENCE OF INFORMATION THAT DOCUMENTS AN EXCHANGE, AN AGREEMENT, OR A TRANSFER BETWEEN AN INDIVIDUAL, A COMMERCIAL ENTITY, OR A THIRD PARTY USED FOR THE PURPOSE OF SATISFYING A REQUEST OR AN EVENT.

(2) "TRANSACTIONAL DATA" INCLUDES RECORDS FROM MORTGAGE, EDUCATION, AND EMPLOYMENT ENTITIES.

3-2602.

(A) THIS SECTION MAY NOT BE CONSTRUED TO IMPOSE LIABILITY ON AN INTERNET SERVICE PROVIDER, OR ITS AFFILIATES OR SUBSIDIARIES, A SEARCH ENGINE, OR A CLOUD SERVICE PROVIDER, SOLELY FOR PROVIDING ACCESS OR CONNECTION TO OR FROM A WEBSITE OR OTHER INFORMATION OR CONTENT ON THE INTERNET OR A FACILITY, SYSTEM, OR NETWORK NOT UNDER THE SERVICE PROVIDER'S CONTROL INCLUDING TRANSMISSION, DOWNLOADING, INTERMEDIATE STORAGE, ACCESS SOFTWARE, OR OTHER SERVICE TO THE EXTENT THAT THE SERVICE PROVIDER IS NOT RESPONSIBLE FOR THE CREATION OR COMMUNICATION OF THE OBSCENE MATERIAL.

(B) THIS SECTION DOES NOT APPLY TO ANY BONA FIDE NEWS OR PUBLIC INTEREST BROADCAST, WEBSITE VIDEO, REPORT, OR EVENT AND MAY NOT BE CONSTRUED TO AFFECT THE RIGHTS OF ANY NEWS-GATHERING ORGANIZATION EMPLOYEES.

(C) (1) A COMMERCIAL ENTITY THAT KNOWINGLY AND INTENTIONALLY DISTRIBUTES OBSCENE MATERIAL ON THE INTERNET FROM A WEBSITE THAT CONTAINS A SUBSTANTIAL PORTION OF OBSCENE MATERIAL SHALL PERFORM REASONABLE AGE VERIFICATION METHODS TO VERIFY THE AGE OF INDIVIDUALS ATTEMPTING TO ACCESS THE MATERIAL.

(2) A COMMERCIAL ENTITY OR THIRD PARTY THAT PERFORMS AN AGE VERIFICATION REQUIRED UNDER THIS SUBSECTION MAY NOT RETAIN ANY IDENTIFYING INFORMATION ABOUT INDIVIDUALS ATTEMPTING TO ACCESS OBSCENE MATERIAL AFTER ACCESS TO THE MATERIAL HAS BEEN GRANTED OR DENIED.

(D) (1) A PERSON MAY BRING AN ACTION AGAINST A COMMERCIAL ENTITY THAT VIOLATES SUBSECTION (C) OF THIS SECTION FOR DAMAGES RESULTING FROM:

(I) A MINOR'S ACCESSING OF OBSCENE MATERIAL; OR

(II) THE RETENTION OF IDENTIFYING INFORMATION OF AN INDIVIDUAL.

(2) A COURT MAY AWARD COSTS AND REASONABLE ATTORNEY'S FEES TO A PREVAILING PLAINTIFF UNDER THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2025.