

HOUSE BILL NO. 254

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE VANCE

Introduced: 1/16/24

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to liability for publishing or distributing pornography to minors on the**
2 **Internet."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 09.68 is amended by adding a new section to read:

5 **Sec. 09.68.140. Civil liability for publishing or distributing pornography to**

6 **minors on the Internet.** (a) A commercial entity that intentionally publishes or
7 distributes pornography on the Internet from an Internet website that contains a
8 substantial portion of pornography shall use a commercially reasonable age
9 verification method to verify that a person attempting to access the pornography is 18
10 years of age or older. A commercial entity that violates this subsection is liable to an
11 individual for damages resulting from a minor accessing the pornography. In this
12 subsection, "commercially reasonable age verification method" includes requiring the
13 person attempting to access the pornography to provide a digitized identification card,
14 requiring the person to comply with a commercial age verification system that verifies

1 age using government-issued identification, or another method that relies on public or
 2 private transactional data.

3 (b) A commercial entity or third party may not retain identifying information
 4 of an individual used to verify age under (a) of this section after access has been
 5 granted to the pornography. A commercial entity that knowingly retains identifying
 6 information of an individual after access has been granted to the individual is liable to
 7 the individual for damages resulting from retaining the identifying information.

8 (c) This section does not apply to a news or public interest broadcast, Internet
 9 website video, report, or event. This section may not be construed to affect the rights
 10 of a

11 (1) printed, online, or mobile platform newspaper, news publication, or
 12 news source of current news;

13 (2) radio broadcast station, television broadcast station, cable
 14 television operator, or wire service; or

15 (3) an employee of an entity identified in (1) or (2) of this subsection.

16 (d) A commercial entity that is an Internet service provider, search engine,
 17 cloud service provider, or affiliate or subsidiary of an Internet service provider is not
 18 liable under this section if the entity

19 (1) is not responsible for the creation of the pornography; and

20 (2) solely provides access or connections to

21 (A) an Internet website;

22 (B) information or material on the Internet; or

23 (C) a system or network, not under the control of the entity, for
 24 data transmission, intermediate storage, Internet access software, or another
 25 service related to Internet access or connectivity.

26 (e) In this section,

27 (1) "commercial entity" includes a corporation, limited liability
 28 company, partnership, limited partnership, sole proprietorship, or other entity
 29 recognized by law;

30 (2) "distribute" means to issue, sell, give, provide, deliver, transfer,
 31 transmit, circulate, or disseminate by any means;

(3) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks;

(4) "minor" means a person under 18 years of age;

(5) "pornography" means material that

(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

(B) in a manner patently offensive with respect to minors, exploits, is devoted to, or principally consists of a description or an actual, simulated, or animated display or depiction of

(i) pubic hair, anuses, vulvas, genitals, or nipples of a female breast;

(ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or

(iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act; and

(C) when taken as a whole, lacks serious literary, artistic, political, or scientific value for minors;

(6) "publish" means to communicate or make information available to another person or entity on a publicly available Internet website;

(7) "substantial portion" means more than one-third of the total material on an Internet website contains pornography;

(8) "transactional data" means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or event.