

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 534
PROPOSED COMMITTEE SUBSTITUTE H534-PCS10450-SA-11

Short Title: Age Verification to Protect Children Act.

(Public)

Sponsors:

Referred to:

March 30, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE LIABILITY FOR PUBLISHERS AND DISTRIBUTORS OF
3 MATERIAL HARMFUL TO MINORS, TO PROVIDE FOR THE INVESTIGATION AND
4 PURSUIT OF ACTIONS BY THE ATTORNEY GENERAL, TO PROVIDE CIVIL
5 PENALTIES FOR FAILURE TO PERFORM AGE VERIFICATION, AND OTHER
6 RELATED MATTERS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Chapter 66 of the General Statutes is amended by adding a new Article
9 to read:

10 "Article 51.

11 "Commercial Publication and Distribution of Material Harmful to Minors.

12 **"§ 66-500. Short title; definitions.**

13 (a) This Article shall be known as the Pornography Age Verification Enforcement Act or
14 the PAVE Act.

15 (b) The following definitions shall apply to this Article:

16 (1) Commercial entity. – Corporations, limited liability companies, partnerships,
17 limited partnerships, sole proprietorships, or other legally recognized entities.

18 (2) Distribute. – To issue, sell, give, provide, deliver, transfer, transmute,
19 circulate, or disseminate by any means.

20 (3) Harmful to minors. – As defined in G.S. 14-190.13.

21 (4) Internet. – The international computer network of both federal and non-federal
22 interoperable packet switched data networks.

23 (5) Material. – As defined in G.S. 14-190.13.

24 (6) News-gathering organization. – Any of the following:

25 a. An employee of a newspaper, news publication, or news source,
26 printed or on an online or mobile platform, of current news and public
27 interest, while operating as an employee as provided in this
28 sub-subdivision, who can provide documentation of such employment
29 with the newspaper, news publication, or news source.

30 b. A radio broadcast station, television broadcast station, cable television
31 operator, or wire service, or an employee of a radio broadcast station,
32 television broadcast station, cable television operator, or wire service.

33 (7) Publish. – To communicate or make information available to another person
34 or entity on a publicly available internet website.

35 (8) Reasonable age verification methods. – Verifying that a person seeking to
36 access the material is 18 years of age or older by requiring the person



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1 attempting to access the material to comply with a commercial age verification
2 system that verifies in any of the following ways:

3 a. Government-issued identification.

4 b. Any commercially reasonable method that relies on public or private
5 transactional data to verify the age of the person attempting to access
6 the information is at least 18 years of age or older.

7 (9) Substantial portion. – More than thirty-three and one-third percent (33 1/3%)
8 of total material on a website, which meets the definition of material harmful
9 to minors as defined in this subsection.

10 **"§ 66-501. Commercial publication and distribution of material harmful to minors; civil**
11 **penalty.**

12 (a) Any commercial entity that knowingly and intentionally publishes or distributes
13 material harmful to minors on the internet from a website that contains a substantial portion of
14 such material shall be subject to civil penalties as provided in this section if the entity fails to
15 perform reasonable age verification methods to verify the age of the individuals attempting to
16 access the material.

17 (b) The Attorney General may conduct an investigation of the alleged violation and
18 initiate a civil action in the Superior Court of Wake County on behalf of the State to assess civil
19 penalties. Prior to asserting a cause of action, the Attorney General shall provide the commercial
20 entity with a period of time of not less than 30 days to comply with this section.

21 (c) Any commercial entity that violates this section may be liable for a civil penalty, to
22 be assessed by the court, of not more than five thousand dollars (\$5,000) for each day of violation.
23 Additionally, the Attorney General may request and the court may impose an additional civil
24 penalty not to exceed ten thousand dollars (\$10,000) for each violation of this section against any
25 commercial entity found by the court to have knowingly failed to perform reasonable age
26 verification methods to verify the age of the individuals attempting to access the material. Any
27 civil penalties ordered by the court shall be collected by the Department of Justice and remitted
28 to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the
29 General Statutes.

30 (d) Each violation of this section may be treated as a separate violation or may be
31 combined into one violation at the option of the Attorney General.

32 (e) Any commercial entity that violates this section may be ordered to pay to the Attorney
33 General all costs, expenses, and fees related to investigations and proceedings associated with
34 the violation, including attorney fees.

35 (f) If the court assesses a civil penalty pursuant to this section, the judgment shall be
36 subject to legal interest as provided in G.S. 24-5.

37 (g) This section shall not apply to any bona fide news or public interest broadcast,
38 website, video, report, or event and shall not be construed to affect the rights of any
39 news-gathering organization.

40 (h) No internet service provider, or its affiliates or subsidiaries, search engine, or cloud
41 service provider shall be held to have violated the provisions of this section solely for providing
42 access or connection to or from a website or other information or content on the internet or a
43 facility, system, or network not under the control of that provider, including transmission,
44 downloading, intermediate storage, access software, or other related capabilities, to the extent
45 such provider is not responsible for the creation of the content of the communication that
46 constitutes material harmful to minors."

47 **SECTION 2.** This act becomes effective January 1, 2024, and applies to websites
48 accessed on or after that date.