

ASSEMBLY, No. 4146

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED APRIL 4, 2024

Sponsored by:

Assemblyman JAY WEBBER
District 26 (Morris and Passaic)

Co-Sponsored by:

Assemblywomen Dunn, Fantasia, Assemblymen Inganamort,
Scharfenberger, Assemblywoman Flynn, Assemblymen Barranco,
Peterson and McGuckin

SYNOPSIS

Requires entities to verify age of persons accessing certain online material and prohibits minors from accessing certain online material.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/14/2025)

1 AN ACT concerning the access of minors to certain online material
2 and supplementing Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in P.L. , c. (C.) (pending before the
8 Legislature as this bill):

9 “Digitized identification card” means a data file available on any
10 mobile device, which has connectivity to the Internet, that allows
11 the mobile device to download the data file from a State agency or
12 an authorized agent of a State agency that contains all of the data
13 elements visible on the face and back of a license or identification
14 card and displays the current status of the license or identification
15 card.

16 “Distribute” means to issue, sell, give, provide, deliver, transfer,
17 transmute, circulate, or disseminate by any means.

18 “Division” means the Division of Consumer Affairs in the
19 Department of Law and Public Safety.

20 “Educational entity” means a school district, charter school,
21 renaissance school, non-public school, or institution of higher
22 education.

23 “Entity” includes corporations, limited liability companies,
24 partnerships, limited partnerships, sole proprietorships, or other
25 legally recognized entities.

26 “Individual” means a natural person residing in this State.

27 “Internet” means the same as the term is defined in P.L.1984,
28 c.184 (C.2C:20-23).

29 “Interactive computer service” means any information service,
30 system, or access software provider that provides or enables
31 computer access by multiple users to a computer server, including,
32 but not limited to, a service or system that provides access to the
33 Internet and such systems operated or services offered by libraries
34 or educational entities and a social media platform that enables
35 users to create a profile, upload posts, view the posts of other users,
36 or otherwise interact with other users.

37 “Information content provider” means any individual or entity
38 that is responsible, in whole or in part, for the creation or
39 development of information provided through the Internet or any
40 interactive computer service. This term also includes any
41 individual or entity that materially contributes or participates in any
42 illegal aspect of content provided by an information content
43 provider, such as requesting or recommending certain illegal
44 content or suggesting the information service provider to change or
45 edit illegal content in any manner other than total deletion or
46 removal, or any similar action that otherwise knowingly facilitates
47 or furthers the provider’s publishing or distribution of content
48 prohibited under P.L. , c. (C.) (pending before the

1 Legislature as this bill). “Information content provider” includes,
2 but is not limited to, social media platforms that are an online
3 service, Internet website, or application made available by a social
4 media company for account holders to create a profile, upload
5 posts, view the posts of other account holders, and interact with
6 other account holders or users.

7 “Material harmful to minors” means any material that meets the
8 following criteria, as determined by the division: (1) the average
9 individual, applying contemporary community standards, would
10 find, taking the material as a whole and with respect to minors, is
11 designed to appeal to, or is designed to pander to, the indecent
12 interest; or (2) exploits, is devoted to, or principally consists of
13 descriptions of actual, simulated, or animated display or depiction
14 of any of the following, in a manner patently offensive with respect
15 to minors: (a) pubic hair, anus, vulva, genitals, or nipple of the
16 female breast; (b) touching, caressing, or fondling of nipples,
17 breasts, buttocks, anuses, or genitals; or (c) sexual intercourse,
18 masturbation, sodomy, bestiality, oral copulation, flagellation,
19 excretory functions, exhibitions, or any other sexual act; or (3) the
20 material taken as a whole lacks serious literary, artistic, political, or
21 scientific value for minors.

22 “Minor” means any individual under 18 years of age.

23 “News-gathering organization” means: (1) a newspaper, news
24 publication, or news source, printed or on an online or mobile
25 platform, of current news and public interest; (2) a radio broadcast
26 station, television broadcast station, cable television operator, or
27 wire service; or (3) an employee, working in their capacity as an
28 employee, of a newspaper, news publication, or news source,
29 printed or on an online or mobile platform, of current news and
30 public interest, a radio broadcast station, television broadcast
31 station, cable television operator, or wire service. A website or an
32 interactive computer service is not deemed to be a news-gathering
33 organization unless its primary business is as an information
34 content provider, news publisher, or broadcaster, of current news
35 and public interest.

36 “Publish” means to communicate or make information available
37 to another individual or entity on a publicly available internet
38 website.

39 “Substantial portion” means that following amounts with respect
40 to each of the following interactive computer services: (1) for a
41 social media platform, more than one-third of total user accounts
42 contain any material harmful to minors, or more than one-third of
43 the content on one or more user’s account on that platform contains
44 material harmful to minors; (2) for a search engine, more than one-
45 third of the webpages displayed in response to any user query
46 contain any material harmful to minors, or more than one-third of
47 the thumbnail images displayed in response to any user query
48 contain any material harmful to minors; or (3) for any website or

1 webpage, including a search engine, more than one-third of the total
2 content on the website or on any individual webpage contains any
3 material harmful to minors, except that when a website contains a
4 hypertext link to a third-party website, the material on such third-
5 party website shall not be considered toward the total percentage of
6 material if that third-party website does not contain material
7 harmful to minors and if such linking does not constitute an attempt
8 to intentionally dilute the percentage calculation of material harmful
9 to minors in order to evade the provisions of P.L. , c. (C.)
10 (pending before the Legislature as this bill).

11 “Transactional data” means a sequence of information that
12 documents an exchange, agreement, or transfer between an
13 individual, entity, or third party that is used for the purpose of
14 satisfying a request or event. “Transactional data” includes, but is
15 not limited to, records from mortgage, education, and employment
16 entities.

17

18 2. a. An entity shall not allow a minor to access an Internet
19 website or individual webpage that contains a substantial portion of
20 material harmful to minors unless:

21 (1) the entity verifies the age of each individual that attempts to
22 access the Internet website or webpage using reasonable age
23 verification methods as required pursuant to subsection b. of this
24 section; and

25 (2) if the individual is determined to be a minor, the material
26 contained on the Internet website or webpage is suitable to the
27 minor, as determined by the standards established by the division
28 pursuant to paragraph (2) of subsection c. of this section.

29 b. (1) An entity shall use reasonable age verification methods
30 to verify the age of an individual that attempts to access material
31 harmful to minors on any Internet website or individual webpage
32 operated by, or on behalf of, the entity. Subject to the provisions of
33 paragraph (2) of this subsection, the age verification method used
34 by the entity may include:

35 (a) the use of a digitized information card;

36 (b) the use of an independent, third-party age verification
37 service that compares the personal information entered by the
38 individual to the material that is available from a commercially
39 available database or aggregate of databases, which databases are
40 regularly used by government agencies and businesses for the
41 purpose of age and identity verification; or

42 (c) any other reasonable method that relies on public or private
43 transactional data to verify the age of the individual.

44 (2) The division shall establish standards and guidelines
45 concerning the reasonable methods of age verification that an entity
46 shall be permitted to use for the purposes of this section. In
47 developing the standards and guidelines, the division may consider
48 such factors as technological feasibility, operational effectiveness

1 of the age verification system, and the scale and number of users
2 and the primary consumer use of an interactive computer service.
3 An entity that employs an age verification method or system that is
4 not consistent with the standards and guidelines set by the division
5 shall be deemed to violate the provisions of this section.

6 (3) An entity or third party that performs the age verification
7 required pursuant to this section shall not retain any identifying
8 information of the individual after access has been granted to the
9 material.

10 c. (1) The division shall establish and update, as necessary,
11 standards and guidelines concerning the types of content that shall
12 be considered material harmful to children for the purposes of
13 P.L. , c. (C.) (pending before the Legislature as this bill).

14 (2) As part of the standards and guidelines established pursuant
15 to this subsection, the division shall also establish and update, as
16 necessary, standards concerning the types of content that are
17 suitable to minors of each of the following ages, which standards
18 shall be based on the different degrees of material harm that such
19 content may have on minors of such ages:

20 (a) minors under the age of 10 years;

21 (b) minors of the age of 10 or more years but less than 15 years;
22 and

23 (c) minors of the age of 15 or more years but less than 18 years.

24 d. (1) This section shall not apply to any bona fide news or
25 public interest broadcast, website video, report, or event and shall
26 not be construed to affect the rights of a news-gathering
27 organization.

28 (2) No interactive computer service, search engine, or cloud
29 service provider in the business of providing access to or for the
30 posting of user content on an Internet platform, website, network or
31 social media platform shall be held to have violated the provisions
32 of this section solely for providing access or connection to or from a
33 website or other information or content on the Internet, or a facility,
34 system, or network not under that provider's control, including
35 transmission, downloading, storing, or providing access; provided,
36 however, that an interactive computer service that is an information
37 content provider for or that participates in a venture with, and
38 knowingly benefits from, an entity in violation of subsection a. of
39 this section regarding that entity's knowing and intentional
40 publishing or distribution of material harmful to minors, shall be
41 liable for damages under section 4 of P.L. , c. (C.)
42 (pending before the Legislature as this bill).

43
44 3. a. The division shall receive consumer complaints alleging a
45 violation of, investigate alleged violations of, and enforce P.L. , c.
46 (C.) (pending before the Legislature as this bill) as outlined in
47 this section. All civil penalties in this section shall be collected by
48 the Director of Consumer Affairs in a summary proceeding before a

1 court of competent jurisdiction pursuant to the provisions of the
2 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10
3 et seq.). Prior to asserting a cause of action the division shall:

4 (1) notify the entity of the violation within 30 days of receiving
5 a complaint of an alleged violation; and

6 (2) provide the entity with not less than 30 days to correct the
7 alleged violation.

8 b. Any entity that violates any provision of P.L. , c.
9 (C.) (pending before the Legislature as this bill) may be liable
10 for a civil penalty, to be assessed by the court, of no more than
11 \$5,000 for each day of the violation occurs, beginning after the 30-
12 day period set forth in paragraph (2) of subsection a. of this section.
13 In addition to the remedies provided in this section, the division
14 may request and the court may impose an additional civil penalty,
15 not to exceed \$10,000, for each violation in which an entity is found
16 by the court to have knowingly failed to perform reasonable age
17 verification methods to verify the age of individuals attempting to
18 access the material.

19 c. Each violation may be treated as a separate violation or may
20 be combined into one violation at the option of the division.

21 d. Any entity that violates any provision of P.L. , c.
22 (C.) (pending before the Legislature as this bill) shall be liable
23 to the division for all costs, expenses, and fees related to
24 investigations and proceedings associated with the violation,
25 including attorney fees.

26 e. If the court assesses a civil penalty pursuant to this section,
27 the division shall be entitled to legal interest from the date of
28 imposition of the penalty until paid in full.

29 f. The division shall be entitled to such penalties, fines, or fees
30 as may be authorized pursuant to this section in any successful
31 enforcement action pursuant to this section for a violation of
32 P.L. , c. (C.) (pending before the Legislature as this bill).
33 Any monies collected pursuant to this section for a violation of P.L.
34 , c. (C.) (pending before the Legislature as this bill) shall be
35 deposited into the fund created pursuant to section 5 of P.L. , c.
36 (C.) (pending before the Legislature as this bill).

37

38 4. a. An individual may bring an action against an entity that
39 violates any provision of P.L. , c. (C.) (pending before the
40 Legislature as this bill). An action pursuant to this subsection shall
41 be brought in the Superior Court of the county in which the
42 individual bringing the action resides.

43 b. If a court finds that an entity has violated any provision of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 the individual bringing an action pursuant to subsection a. of this
46 section shall be entitled to:

47 (1) reasonable attorney fees and court costs;

48 (2) up to \$2,500 per instance of violation; and

1 (3) if the violation resulted from a minor accessing material
2 harmful to minors, compensatory damages and damages for
3 emotional pain and suffering, if the conduct of the defendant is
4 found to be willful, wanton, or reckless.

5
6 5. a. The Director of the Division of Consumer Affairs shall
7 establish and administer a fund for the purpose of providing aid in
8 the investigation of cyber-crimes involving the exploitation of
9 children.

10 b. The fund shall consist of the moneys received by the division
11 pursuant to section 3 of P.L. , c. (C.) (pending before the
12 Legislature as this bill), as well as any other moneys that may be
13 made available for the fund.

14 c. Not more than five percent of the moneys deposited into the
15 fund during any State fiscal year may be used to pay the
16 administrative costs of the Division of Consumer Affairs during that
17 fiscal year.

18 d. Any law enforcement agency in the State may submit an
19 application to the Division of Consumer Affairs for funds to defray
20 any expenses involved in the investigation and prosecution of
21 cyber-crimes involving the exploitation of children, in accordance
22 with procedures specified by the division.

23
24 6. The Division of Consumer Affairs shall adopt, pursuant to the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
26 seq.), such rules and regulations as are necessary to effectuate the
27 purposes of P.L. , c. (C.) (pending before the Legislature as
28 this bill).

29
30 7. This act shall take effect immediately.

31
32
33 STATEMENT

34
35 This bill requires imposes several requirements on entities that
36 operate certain Internet websites and webpages, including requiring
37 the entity to verify the age of all State residents that attempts to
38 access the website or webpage and prohibiting minors from
39 accessing certain material that is not suitable to minors.

40 Specifically, the bill provides that an entity may not allow a State
41 resident under the age of 18 years to access an Internet website or
42 an individual webpage that contains a "substantial portion" of
43 material harmful to minors, as defined in the bill, unless: (1) the
44 entity verifies the age of each resident that attempts to access the
45 Internet website or webpage using reasonable age verification
46 methods; and (2) if the resident is determined to be a minor, the
47 material contained on the Internet website or webpage is suitable to
48 the minor, as determined by the Division of Consumer Affairs

1 (division) in the Department of law and Public Safety. For the
2 purposes of this bill, “substantial purpose” means that following
3 amounts with respect to each of the following interactive computer
4 services: (1) for a social media platform, more than one-third of
5 total user accounts contain any material harmful to minors, or more
6 than one-third of the content on one or more user’s account on that
7 platform contains material harmful to minors; (2) for a search
8 engine, more than one-third of the webpages displayed in response
9 to any user query contain any material harmful to minors, or more
10 than one-third of the thumbnail images displayed in response to any
11 user query contain any material harmful to minors; or (3) for any
12 website or webpage, including a search engine, more than one-third
13 of the total content on the website or on any individual webpage
14 contains any material harmful to minors.

15 The bill also provides that an entity or third party that performs
16 the required age verification may not retain any identifying
17 information of the individual after access has been granted to the
18 material.

19 Under this bill, an entity is required to use reasonable age
20 verification methods that comply with standards and guidelines
21 established by the division. However, the bill provides that the
22 permitted age verifications methods may generally include: (1) use
23 of a digitized information card; (2) verification through an
24 independent, third-party age verification service that compares the
25 personal information entered by the individual who is seeking
26 access to the material that is available from a commercially
27 available database, or aggregate of databases, that is regularly used
28 by government agencies and businesses for the purpose of age and
29 identity verification; or (3) any available, reasonable method that
30 relies on public or private transactional data to verify the age of the
31 individual attempting to access the material. In developing the
32 standards and guidelines concerning the permitted methods of age
33 verification, the division may consider such factors as technological
34 feasibility, operational effectiveness of the age verification system,
35 and the scale and number of users and the primary consumer use of
36 an interactive computer service.

37 Under this bill, the division would also be required to establish
38 standards and guidelines to determine the types of content that
39 would be deemed “material harmful to minors,” as defined in the
40 bill. Additionally, the division would also be required to determine
41 the types of content that would be deemed suitable to minors of
42 each of the following ages, which standards would be based on the
43 different degrees of material harmful that such content may have on
44 minors of such ages: (1) minors under the age of 10 years; (2)
45 minors over the age of 10 years but less than 15 years; and (3)
46 minors from the age of 15 years but less than 18 years.

47 This bill would not apply to any bona fide news or public interest
48 broadcast, website video, report, or event. The bill also provides

1 that interactive computer services, search engines, and certain cloud
2 service providers would not be deemed to violate the provisions of
3 this bill solely for providing access or connection to or from a
4 website or other information or content on the Internet, or a facility,
5 system, or network, unless the interactive computer service
6 participates in a venture with, and knowingly benefits from, an
7 entity in violation of this bill, regarding an entity's knowing and
8 intentional publishing or distribution of material harmful to minors.

9 Under the bill, the division is required to receive consumer
10 complaints related to, investigate alleged violation of, and enforce
11 the provisions of this bill. The division would be entitled to any
12 penalties, fines, or fees collected for a violation, which monies
13 would be deposited into a fund, established by this bill, to provide
14 aid in the investigation of cyber-crimes involving the exploitation
15 of children. State law agencies may apply for monies from this
16 fund in a manner prescribed by the division.

17 Before initiating an enforcement action, the bill requires the
18 division to provide written notice identifying and explaining the
19 basis for each alleged violation to be enforced. Thereafter, an entity
20 receiving notice may prevent the need for an enforcement action by
21 curing the violation. If the entity does not cure a violation, the
22 division may initiate a civil action as provided in the bill.

23 The division is authorized to impose a civil penalty of up to
24 \$5,000 for each violation or to initiate a civil suit in Superior Court.
25 A court may grant an additional \$10,000 per violation. If the
26 division proves a violation, the division is entitled to reasonable
27 attorney fees, court costs, and investigative fees.

28 Additionally, the bill permits an individual to bring an action in
29 the Superior Court against an entity for failure to comply with the
30 provisions of this bill. If the suit is successful, an individual would
31 be entitled to reasonable attorney fees and court costs. An
32 individual would also be entitled to up to \$2,500 per instance of
33 violation, and if the violation resulted from a minor accessing
34 material harmful to minors, may include compensatory damages
35 and damages for emotional pain and suffering, provided the
36 conduct of the defendant is found to be willful, wanton, or reckless.