

PROPOSED AMENDMENT

SB 17 # 2

DIGEST

Age verification of material harmful to minors. Adds definitions of "person" and "verification information". Increases damages from \$1,000 to \$5,000. Requires adult oriented website operators to use commercially reasonable methods to secure all information collected and transmitted. Adds a provision allowing the attorney general to bring an action to obtain an injunction, a civil penalty of not more than \$250,000, or the attorney general's reasonable costs in investigating and maintaining the action. Provides that when the attorney general has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in a violation, the attorney general is empowered to issue civil investigative demands under IC 4-6-3-3 to investigate the suspected violation. Requires verification information of minors to be kept confidential with certain exceptions. Adds verification information to the definition of "personal information". Adds a violation of IC 24-4-23 as a deceptive act.

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- 1 Page 2, between lines 11 and 12, begin a new paragraph and insert:
2 **"Sec. 6. "Person" means a human being, a corporation, a limited**
3 **liability company, a partnership, an unincorporated association, or**
4 **a governmental entity."**
5 Page 2, line 12, delete "Sec. 6." and insert "**Sec. 7.**".
6 Page 2, line 26, delete "Sec. 7." and insert "**Sec. 8.**".
7 Page 2, between lines 30 and 31, begin a new paragraph and insert:
8 **"Sec. 9. "Verification information" means all information, data,**
9 **and documents provided by an individual for the purposes of**
10 **verification of identity or age under this chapter."**
11 Page 2, line 31, delete "Sec. 8." and insert "**Sec. 10.**".
12 Page 2, line 36, delete "Sec. 9." and insert "**Sec. 11.**".
13 Page 2, line 39, delete "8" and insert "**10**".
14 Page 3, line 6, delete "liquidated damages of one thousand dollars
15 (\$1,000);" and insert "**damages of up to five thousand dollars**
16 **(\$5,000);"**.
17 Page 3, line 11, delete "Sec. 10." and insert "**Sec. 12.**".
18 Page 3, line 12, delete "8" and insert "**10**".
19 Page 3, line 20, delete "Sec. 11." and insert "**Sec. 13.**".
20 Page 3, line 23, delete "applies" and insert "**applies, and any third**
21 **party verification service used by a person to which this section**

1 **applies,"**

2 Page 3, line 34, delete "liquidated damages of one thousand dollars
3 (\$1,000);" and insert "**damages of up to five thousand dollars**
4 **(\$5,000);"**

5 Page 3, after line 38, begin a new paragraph and insert:

6 "**Sec. 14. Adult oriented website operators must use**
7 **commercially reasonable methods to secure all information**
8 **collected and transmitted under this chapter.**

9 **Sec. 15. The attorney general may bring an action under this**
10 **chapter to obtain any or all of the following against an adult**
11 **oriented website, accessible by an Indiana resident, that does not**
12 **implement or properly use a reasonable age verification method:**

- 13 (1) **An injunction to enjoin future violations of this chapter.**
14 (2) **A civil penalty of not more than two hundred fifty**
15 **thousand dollars (\$250,000).**
16 (3) **The attorney general's reasonable costs in:**
17 (A) **the investigation of the violations under this chapter;**
18 **and**
19 (B) **maintaining the action.**

20 **Sec. 16. When the attorney general has reasonable cause to**
21 **believe that any person has engaged in, is engaging in, or is about**
22 **to engage in a violation of this chapter, the attorney general is**
23 **empowered to issue civil investigative demands under IC 4-6-3-3**
24 **to investigate the suspected violation.**

25 **Sec. 17. In an action filed under sections 11, 12, 13, and 15 of**
26 **this chapter, the verification information of a minor who accessed**
27 **the adult oriented website shall remain confidential. The clerk of**
28 **the court shall place all records of the minor who accessed the**
29 **adult oriented website in an envelope marked "confidential" inside**
30 **the court's file pertaining to the minor. Records placed in the**
31 **confidential envelope may only be released to:**

- 32 (1) **the judge or any authorized staff member;**
33 (2) **a party and the party's attorney;**
34 (3) **the parents of a minor who accessed the adult oriented**
35 **website; or**
36 (4) **any person having a legitimate interest in the work of the**
37 **court or in a particular case as determined by the presiding**
38 **judge or their successor who shall consider the best interests,**
39 **safety, and welfare of the minor.**

40 SECTION 2. IC 24-4.9-2-10, AS ADDED BY P.L.125-2006,

1 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2024]: Sec. 10. "Personal information" means:

3 (1) a Social Security number that is not encrypted or redacted; ~~or~~
4 (2) an individual's first and last names, or first initial and last
5 name, and one (1) or more of the following data elements that are
6 not encrypted or redacted:

7 (A) A driver's license number.

8 (B) A state identification card number.

9 (C) A credit card number.

10 (D) A financial account number or debit card number in
11 combination with a security code, password, or access code
12 that would permit access to the person's account; ~~or~~

13 **(3) information collected by an adult oriented website**
14 **operator, or their designee, under IC 24-4-23.**

15 The term does not include information that is lawfully obtained from
16 publicly available information or from federal, state, or local
17 government records lawfully made available to the general public.

18 SECTION 3. IC 24-5-0.5-3, AS AMENDED BY P.L.34-2022,
19 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2024]: Sec. 3. (a) A supplier may not commit an unfair,
21 abusive, or deceptive act, omission, or practice in connection with a
22 consumer transaction. Such an act, omission, or practice by a supplier
23 is a violation of this chapter whether it occurs before, during, or after
24 the transaction. An act, omission, or practice prohibited by this section
25 includes both implicit and explicit misrepresentations.

26 (b) Without limiting the scope of subsection (a), the following acts,
27 and the following representations as to the subject matter of a
28 consumer transaction, made orally, in writing, or by electronic
29 communication, by a supplier, are deceptive acts:

30 (1) That such subject of a consumer transaction has sponsorship,
31 approval, performance, characteristics, accessories, uses, or
32 benefits it does not have which the supplier knows or should
33 reasonably know it does not have.

34 (2) That such subject of a consumer transaction is of a particular
35 standard, quality, grade, style, or model, if it is not and if the
36 supplier knows or should reasonably know that it is not.

37 (3) That such subject of a consumer transaction is new or unused,
38 if it is not and if the supplier knows or should reasonably know
39 that it is not.

40 (4) That such subject of a consumer transaction will be supplied

- 1 to the public in greater quantity than the supplier intends or
2 reasonably expects.
- 3 (5) That replacement or repair constituting the subject of a
4 consumer transaction is needed, if it is not and if the supplier
5 knows or should reasonably know that it is not.
- 6 (6) That a specific price advantage exists as to such subject of a
7 consumer transaction, if it does not and if the supplier knows or
8 should reasonably know that it does not.
- 9 (7) That the supplier has a sponsorship, approval, or affiliation in
10 such consumer transaction the supplier does not have, and which
11 the supplier knows or should reasonably know that the supplier
12 does not have.
- 13 (8) That such consumer transaction involves or does not involve
14 a warranty, a disclaimer of warranties, or other rights, remedies,
15 or obligations, if the representation is false and if the supplier
16 knows or should reasonably know that the representation is false.
- 17 (9) That the consumer will receive a rebate, discount, or other
18 benefit as an inducement for entering into a sale or lease in return
19 for giving the supplier the names of prospective consumers or
20 otherwise helping the supplier to enter into other consumer
21 transactions, if earning the benefit, rebate, or discount is
22 contingent upon the occurrence of an event subsequent to the time
23 the consumer agrees to the purchase or lease.
- 24 (10) That the supplier is able to deliver or complete the subject of
25 the consumer transaction within a stated period of time, when the
26 supplier knows or should reasonably know the supplier could not.
27 If no time period has been stated by the supplier, there is a
28 presumption that the supplier has represented that the supplier
29 will deliver or complete the subject of the consumer transaction
30 within a reasonable time, according to the course of dealing or the
31 usage of the trade.
- 32 (11) That the consumer will be able to purchase the subject of the
33 consumer transaction as advertised by the supplier, if the supplier
34 does not intend to sell it.
- 35 (12) That the replacement or repair constituting the subject of a
36 consumer transaction can be made by the supplier for the estimate
37 the supplier gives a customer for the replacement or repair, if the
38 specified work is completed and:
- 39 (A) the cost exceeds the estimate by an amount equal to or
40 greater than ten percent (10%) of the estimate;

- 1 (B) the supplier did not obtain written permission from the
 2 customer to authorize the supplier to complete the work even
 3 if the cost would exceed the amounts specified in clause (A);
 4 (C) the total cost for services and parts for a single transaction
 5 is more than seven hundred fifty dollars (\$750); and
 6 (D) the supplier knew or reasonably should have known that
 7 the cost would exceed the estimate in the amounts specified in
 8 clause (A).
- 9 (13) That the replacement or repair constituting the subject of a
 10 consumer transaction is needed, and that the supplier disposes of
 11 the part repaired or replaced earlier than seventy-two (72) hours
 12 after both:
- 13 (A) the customer has been notified that the work has been
 14 completed; and
 15 (B) the part repaired or replaced has been made available for
 16 examination upon the request of the customer.
- 17 (14) Engaging in the replacement or repair of the subject of a
 18 consumer transaction if the consumer has not authorized the
 19 replacement or repair, and if the supplier knows or should
 20 reasonably know that it is not authorized.
- 21 (15) The act of misrepresenting the geographic location of the
 22 supplier by listing an alternate business name or an assumed
 23 business name (as described in IC 23-0.5-3-4) in a local telephone
 24 directory if:
- 25 (A) the name misrepresents the supplier's geographic location;
 26 (B) the listing fails to identify the locality and state of the
 27 supplier's business;
 28 (C) calls to the local telephone number are routinely forwarded
 29 or otherwise transferred to a supplier's business location that
 30 is outside the calling area covered by the local telephone
 31 directory; and
 32 (D) the supplier's business location is located in a county that
 33 is not contiguous to a county in the calling area covered by the
 34 local telephone directory.
- 35 (16) The act of listing an alternate business name or assumed
 36 business name (as described in IC 23-0.5-3-4) in a directory
 37 assistance data base if:
- 38 (A) the name misrepresents the supplier's geographic location;
 39 (B) calls to the local telephone number are routinely forwarded
 40 or otherwise transferred to a supplier's business location that

- 1 is outside the local calling area; and
2 (C) the supplier's business location is located in a county that
3 is not contiguous to a county in the local calling area.
- 4 (17) The violation by a supplier of IC 24-3-4 concerning
5 cigarettes for import or export.
- 6 (18) The act of a supplier in knowingly selling or reselling a
7 product to a consumer if the product has been recalled, whether
8 by the order of a court or a regulatory body, or voluntarily by the
9 manufacturer, distributor, or retailer, unless the product has been
10 repaired or modified to correct the defect that was the subject of
11 the recall.
- 12 (19) The violation by a supplier of 47 U.S.C. 227, including any
13 rules or regulations issued under 47 U.S.C. 227.
- 14 (20) The violation by a supplier of the federal Fair Debt
15 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
16 rules or regulations issued under the federal Fair Debt Collection
17 Practices Act (15 U.S.C. 1692 et seq.).
- 18 (21) A violation of IC 24-5-7 (concerning health spa services), as
19 set forth in IC 24-5-7-17.
- 20 (22) A violation of IC 24-5-8 (concerning business opportunity
21 transactions), as set forth in IC 24-5-8-20.
- 22 (23) A violation of IC 24-5-10 (concerning home consumer
23 transactions), as set forth in IC 24-5-10-18.
- 24 (24) A violation of IC 24-5-11 (concerning real property
25 improvement contracts), as set forth in IC 24-5-11-14.
- 26 (25) A violation of IC 24-5-12 (concerning telephone
27 solicitations), as set forth in IC 24-5-12-23.
- 28 (26) A violation of IC 24-5-13.5 (concerning buyback motor
29 vehicles), as set forth in IC 24-5-13.5-14.
- 30 (27) A violation of IC 24-5-14 (concerning automatic
31 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 32 (28) A violation of IC 24-5-15 (concerning credit services
33 organizations), as set forth in IC 24-5-15-11.
- 34 (29) A violation of IC 24-5-16 (concerning unlawful motor
35 vehicle subleasing), as set forth in IC 24-5-16-18.
- 36 (30) A violation of IC 24-5-17 (concerning environmental
37 marketing claims), as set forth in IC 24-5-17-14.
- 38 (31) A violation of IC 24-5-19 (concerning deceptive commercial
39 solicitation), as set forth in IC 24-5-19-11.
- 40 (32) A violation of IC 24-5-21 (concerning prescription drug

- 1 discount cards), as set forth in IC 24-5-21-7.
- 2 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 3 appraisals), as set forth in IC 24-5-23.5-9.
- 4 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 5 forth in IC 24-5-26-3.
- 6 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
- 7 as set forth in IC 24-5.5-6-1.
- 8 (36) A violation of IC 24-8 (concerning promotional gifts and
- 9 contests), as set forth in IC 24-8-6-3.
- 10 (37) A violation of IC 21-18.5-6 (concerning representations
- 11 made by a postsecondary credit bearing proprietary educational
- 12 institution), as set forth in IC 21-18.5-6-22.5.
- 13 (38) A violation of IC 24-5-15.5 (concerning collection actions of
- 14 a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.
- 15 (39) A violation of IC 24-14 (concerning towing services), as set
- 16 forth in IC 24-14-10-1.
- 17 (40) A violation of IC 24-5-14.5 (concerning misleading or
- 18 inaccurate caller identification information), as set forth in
- 19 IC 24-5-14.5-12.
- 20 (41) A violation of IC 24-5-27 (concerning intrastate inmate
- 21 calling services), as set forth in IC 24-5-27-27.
- 22 **(42) A violation of IC 24-4-23 (concerning the security of**
- 23 **information collected and transmitted by an adult oriented**
- 24 **website operator), as set forth in IC 24-4-23-14.**
- 25 (c) Any representations on or within a product or its packaging or
- 26 in advertising or promotional materials which would constitute a
- 27 deceptive act shall be the deceptive act both of the supplier who places
- 28 such representation thereon or therein, or who authored such materials,
- 29 and such other suppliers who shall state orally or in writing that such
- 30 representation is true if such other supplier shall know or have reason
- 31 to know that such representation was false.
- 32 (d) If a supplier shows by a preponderance of the evidence that an
- 33 act resulted from a bona fide error notwithstanding the maintenance of
- 34 procedures reasonably adopted to avoid the error, such act shall not be
- 35 deceptive within the meaning of this chapter.
- 36 (e) It shall be a defense to any action brought under this chapter that
- 37 the representation constituting an alleged deceptive act was one made
- 38 in good faith by the supplier without knowledge of its falsity and in
- 39 reliance upon the oral or written representations of the manufacturer,
- 40 the person from whom the supplier acquired the product, any testing

1 organization, or any other person provided that the source thereof is
2 disclosed to the consumer.

3 (f) For purposes of subsection (b)(12), a supplier that provides
4 estimates before performing repair or replacement work for a customer
5 shall give the customer a written estimate itemizing as closely as
6 possible the price for labor and parts necessary for the specific job
7 before commencing the work.

8 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
9 company or other provider of a telephone directory or directory
10 assistance service or its officer or agent is immune from liability for
11 publishing the listing of an alternate business name or assumed
12 business name of a supplier in its directory or directory assistance data
13 base unless the telephone company or other provider of a telephone
14 directory or directory assistance service is the same person as the
15 supplier who has committed the deceptive act.

16 (h) For purposes of subsection (b)(18), it is an affirmative defense
17 to any action brought under this chapter that the product has been
18 altered by a person other than the defendant to render the product
19 completely incapable of serving its original purpose."

20 Renumber all SECTIONS consecutively.

(Reference is to SB 17 as reprinted January 17, 2024.)