

HOUSE BILL No. 1063

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4-23.

Synopsis: Age verification. Requires an adult oriented website operator that displays material harmful to minors to use a reasonable age verification method to prevent a minor from accessing an adult oriented website. Creates a cause of action to permit: (1) the parent or guardian of a child harmed by a violation of the age verification requirement to obtain monetary damages, injunctive relief, and reasonable attorney's fees; and (2) the attorney general to bring an action based on a violation of the age verification requirement or data retention requirements to obtain injunctive relief, and, after providing notice and an opportunity to cure, a civil penalty of not more than \$5,000 per day of violation. Prohibits a person that conducts age verification from: (1) retaining the identifying information of an individual seeking to access an adult oriented website; (2) using identifying information for a purpose other than age verification; or (3) collecting identifying information that is not reasonably necessary for purposes of age verification. Permits an individual whose identifying information is misused to bring an action to obtain monetary damages, injunctive relief, and reasonable attorney's fees.

Effective: July 1, 2024.

King

January 8, 2024, read first time and referred to Committee on Judiciary.



Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1063

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-4-23 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2024]:
- 4 **Chapter 23. Age Verification for Adult Oriented Websites**
- 5 **Sec. 1. "Adult oriented website" means a publicly accessible**
- 6 **website that publishes material harmful to minors, if at least**
- 7 **one-third (1/3) of the images and videos published on the website**
- 8 **depict material harmful to minors.**
- 9 **Sec. 2. "Adult oriented website operator" means a person that**
- 10 **owns or operates an adult oriented website.**
- 11 **Sec. 3. "Material harmful to minors" means matter or a**
- 12 **performance described in IC 35-49-2-2.**
- 13 **Sec. 4. "Minor" means a person less than eighteen (18) years of**
- 14 **age.**
- 15 **Sec. 5. "Mobile credential" has the meaning set forth in**
- 16 **IC 9-13-2-103.4.**
- 17 **Sec. 6. "Reasonable age verification method" means a method**



1 of determining that an individual seeking to access a website
 2 containing material harmful to minors is not a minor by using one
 3 (1) or more of the following methods:

4 (1) A mobile credential.

5 (2) An independent third party age verification service that
 6 compares the identifying information entered by the
 7 individual who is seeking access with information that is
 8 available from a commercially available data base, or an
 9 aggregate of data bases, that is regularly used by government
 10 agencies and businesses for the purpose of age and identity
 11 verification.

12 (3) Any commercially reasonable method that relies on public
 13 or private transactional data to verify the age of the
 14 individual attempting to access the material harmful to
 15 minors.

16 **Sec. 7. "Transactional data" means a sequence of information**
 17 **that documents an exchange, agreement, or transfer between an**
 18 **individual, commercial entity, or third party used for the purpose**
 19 **of satisfying a request or event. The term includes records that**
 20 **relate to a mortgage, education, or employment.**

21 **Sec. 8. An adult oriented website operator may not knowingly**
 22 **or intentionally publish an adult oriented website unless the adult**
 23 **oriented website operator uses a reasonable age verification**
 24 **method to prevent a minor from accessing the adult oriented**
 25 **website.**

26 **Sec. 9. (a) If:**

27 (1) an adult oriented website operator knowingly or
 28 intentionally publishes an adult oriented website in violation
 29 of section 8 of this chapter; and

30 (2) a minor accesses the adult oriented website;

31 the parent or guardian of the minor who accessed the adult
 32 oriented website may bring an action against the adult oriented
 33 website operator.

34 (b) A parent or guardian who prevails in an action described in
 35 this section is entitled to:

36 (1) either:

37 (A) actual damages; or

38 (B) liquidated damages of one thousand dollars (\$1,000);

39 (2) injunctive relief; and

40 (3) court costs, reasonable attorney's fees, and other
 41 reasonable expenses of litigation, including expert witness
 42 fees.



1 **Sec. 10. (a) If an adult oriented website operator publishes an**
 2 **adult oriented website in violation of section 8 of this chapter, or**
 3 **violates section 11 of this chapter, the attorney general may bring**
 4 **an action to seek injunctive relief.**

5 **(b) In addition to injunctive relief under subsection (a), if:**

6 **(1) the attorney general notifies the adult oriented website**
 7 **operator in writing that the adult oriented website operator**
 8 **is violating section 8 or 11 of this chapter; and**

9 **(2) the adult oriented website operator does not cure the**
 10 **violation within thirty (30) days after receipt of the notice;**
 11 **the attorney general may bring an action to impose a civil penalty**
 12 **on the adult oriented website operator. If the trier of fact**
 13 **determines that the adult oriented website operator violated**
 14 **section 8 or 11 of this chapter, the court shall impose a civil penalty**
 15 **of not more than five thousand dollars (\$5,000) for each day of**
 16 **violation.**

17 **Sec. 11. (a) This section applies to a person that uses or purports**
 18 **to use a reasonable age verification method to grant or deny access**
 19 **to an adult oriented website.**

20 **(b) A person to which this section applies may not:**

21 **(1) retain identifying information of an individual seeking**
 22 **access to an adult oriented website, unless retention of the**
 23 **identifying information is required by a court order;**

24 **(2) use identifying information of an individual seeking access**
 25 **to an adult oriented website for any purpose other than age**
 26 **verification; or**

27 **(3) collect information other than that which is reasonably**
 28 **necessary for age verification.**

29 **(c) An individual whose identifying information is retained,**
 30 **used, or collected in violation of this section may bring an action**
 31 **against the person that unlawfully retained, used, or collected the**
 32 **individual's identifying information. An individual who prevails in**
 33 **an action described in this section is entitled to:**

34 **(1) either:**

35 **(A) actual damages; or**

36 **(B) liquidated damages of one thousand dollars (\$1,000);**

37 **(2) injunctive relief; and**

38 **(3) court costs, reasonable attorney's fees, and other**
 39 **reasonable expenses of litigation, including expert witness**
 40 **fees.**

