

57 (f) a distributor of electronic or computerized game software that users manipulate
58 through interactive devices.

59 (2) This part does not apply to an entity described in Subsection (1) if:

60 (a) the distribution of pornographic material by the entity occurs only incidentally
61 through the entity's function of:

62 (i) transmitting or routing data from one person to another person;

63 (ii) providing a connection between one person and another person; or

64 (iii) providing data storage space or data caching to a person;

65 (b) the entity does not intentionally aid or abet in the distribution of the pornographic
66 material; and

67 (c) the entity does not knowingly receive from or through a person who distributes the
68 pornographic material a fee greater than the fee generally charged by the entity, as a specific
69 condition for permitting the person to distribute the pornographic material.

70 Section 4. Section **78B-6-2103** is enacted to read:

71 **78B-6-2103. Liability -- Safe harbor.**

72 (1) A person who predominately distributes or otherwise predominately provides
73 pornographic material to ~~H~~→ [another person] consumers ←~~H~~ is liable to

73a ~~H~~→ [the] a ←~~H~~ person if:

74 (a) at the time the pornographic material is viewed by the person, the person is a minor;
75 and

76 (b) the pornographic material is the proximate cause for the person being harmed
77 physically or psychologically, or by emotional or medical illnesses as a result of that
78 pornographic material.

79 (2) Nothing in this part affects any private right of action existing under other law,
80 including contract.

81 (3) Notwithstanding Subsection (1), a person who distributes or otherwise provides
82 pornographic material is not liable under this section if the person who distributes or otherwise
83 provides pornographic material:

84 (a) provides a warning that:

85 (i) is conspicuous;

86 (ii) appears before the pornographic material can be accessed; and

87 (iii) consists of a good faith effort to warn persons accessing the pornographic material

88 that the pornographic material may be harmful to minors; and

89 (b) makes a good faith effort to verify the age of a person accessing the pornographic
90 material.

91 (4) Subsection (3) may not be interpreted as exempting a person from complying with
92 Title 13, Chapter 39, Child Protection Registry.

93 Section 5. Section **78B-6-2104** is enacted to read:

94 **78B-6-2104. Damages -- Class action.**

95 (1) If a court finds that a person violates Section 78B-6-2103, the court may award the
96 plaintiff:

97 (a) actual damages; and

98 (b) punitive damages, if it is proven that the person targeted minors.

99 ~~**H→ (2) In an action brought under this part, the court may award the prevailing party**~~
100 ~~**attorney fees and costs.**~~

101 ~~———(3)]~~ **(2) ←H A class action may be brought under this part in accordance with Utah Rules of**
102 **Civil Procedure, Rule 23.**