

1 **Sexual Abuse Material Modifications**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nicholeen P. Peck

Senate Sponsor:

3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions relating to liability for commercial entities.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ defines terms;

9 ▶ prohibits a commercial entity from knowingly or intentionally publishing or distributing
10 obscene material or child sexual abuse material on the Internet;

11 ▶ prohibits a commercial entity from knowingly or intentionally engaging in the purchase
12 or distribution of a child sex doll;

13 ▶ provides a cause of action for an individual against a commercial entity that distributes or
14 publishes unlawful materials;

15 ▶ provides the relief a court may grant if an individual brings a cause of action against a
16 commercial entity that distributes or publishes unlawful materials;

17 ▶ provides that a commercial entity is not liable for unlawful content on the commercial
18 entity's services, if the commercial entity did not create the unlawful material;

19 ▶ authorizes the attorney general to seek relief against a commercial entity that distributes
20 or publishes unlawful materials;

21 ▶ requires that the attorney general develop and publish guidance relating to liability for
22 commercial entities; and

23 ▶ authorizes individuals with claims under the provisions this bill enacts to combine the
24 individuals' claims.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **78B-3-1001**, as enacted by Laws of Utah 2023, Chapter 262

32 ENACTS:

33 **78B-3-1004**, Utah Code Annotated 1953

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **78B-3-1001** is amended to read:

37 **Part 10. Liability for Publishers and Distributors of Obscene Material and Material**

38

Harmful to Minors

39 **78B-3-1001 . Definitions.**

40 As used in this chapter:

- 41 (1) "Commercial entity" includes corporations, limited liability companies, partnerships,
 42 limited partnerships, sole proprietorships, or other legally recognized entities.
- 43 (2) "Child sex doll" means the same as that term is defined in Section 76-10-1236.
- 44 (3) "Cloud service provider" means a commercial entity that offers data storage, computing
 45 power, or other digital infrastructure resources to a person through the Internet.
- 46 [(2)] (4) "Digitized identification card" means a data file available on any mobile device
 47 which has connectivity to the Internet through a state-approved application that allows
 48 the mobile device to download the data file from a state agency or an authorized agent of
 49 a state agency that contains all of the data elements visible on the face and back of a
 50 license or identification card and displays the current status of the license or
 51 identification card.
- 52 [(3)] (5) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute,
 53 circulate, or disseminate by any means.
- 54 [(4)] (6) "Internet" means the international computer network of both federal and
 55 non-federal interoperable packet switched data networks.
- 56 (7) "Internet service provider" means a commercial entity that connects a person to the
 57 Internet by providing or installing technology including cable, wireless, and fiber-optic.
- 58 [(5)] (8) "Material harmful to minors" is defined as all of the following:
- 59 (a) any material that the average person, applying contemporary community standards,
 60 would find, taking the material as a whole and with respect to minors, is designed to
 61 appeal to, or is designed to pander to, the prurient interest;
- 62 (b) material that exploits, is devoted to, or principally consists of descriptions of actual,

- 63 simulated, or animated display or depiction of any of the following, in a manner
64 patently offensive with respect to minors:
- 65 (i) pubic hair, anus, vulva, genitals, or nipple of the female breast;
 - 66 (ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals;
 - 67 or
 - 68 (iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
69 flagellation, excretory functions, exhibitions, or any other sexual act; and
- 70 (c) the material taken as a whole lacks serious literary, artistic, political, or scientific
71 value for minors.
- 72 ~~[(6)]~~ (9) "Minor" means any person under 18 years old.
- 73 ~~[(7)]~~ (10) "News-gathering organization" means any of the following:
- 74 (a) an employee of a newspaper, news publication, or news source, printed or on an
75 online or mobile platform, of current news and public interest, while operating as an
76 employee as provided in this subsection, who can provide documentation of such
77 employment with the newspaper, news publication, or news source; or
 - 78 (b) an employee of a radio broadcast station, television broadcast station, cable
79 television operator, or wire service while operating as an employee as provided in
80 this subsection, who can provide documentation of such employment.
- 81 (11) "Obscene material" means any material that meets the standard of being pornographic
82 under Section 76-10-1203.
- 83 ~~[(8)]~~ (12) "Publish" means to communicate or make information available to another person
84 or entity on a publicly available Internet website.
- 85 ~~[(9)]~~ (13) "Reasonable age verification methods" means verifying that the person seeking to
86 access the material is 18 years old or older by using any of the following methods:
- 87 (a) use of a digitized information card as defined in this section;
 - 88 (b) verification through an independent, third-party age verification service that
89 compares the personal information entered by the individual who is seeking access to
90 the material that is available from a commercially available database, or aggregate of
91 databases, that is regularly used by government agencies and businesses for the
92 purpose of age and identity verification; or
 - 93 (c) any commercially reasonable method that relies on public or private transactional
94 data to verify the age of the person attempting to access the material.
- 95 (14) "Child sexual abuse material" means the same as that term is defined in Section
96 76-5b-103.

97 (15) "Search engine" means an Internet service that enables an individual to search for
98 information on the Internet by entering search terms.

99 ~~[(10)]~~ (16) "Substantial portion" means more than 33-1/3% of total material on a website,
100 which meets the definition of "material harmful to minors" as defined in this section.

101 ~~[(11)]~~ (17)(a) "Transactional data" means a sequence of information that documents an
102 exchange, agreement, or transfer between an individual, commercial entity, or third
103 party used for the purpose of satisfying a request or event.

104 (b) "Transactional data" includes records from mortgage, education, and employment
105 entities.

106 Section 2. Section **78B-3-1004** is enacted to read:

107 **78B-3-1004 . Liability for publishers and distributors of obscene material and**
108 **child sexual abuse material.**

109 (1) A commercial entity may not knowingly or intentionally:

110 (a) publish or distribute obscene material or child sexual abuse material on the Internet;

111 or

112 (b) engage in the distribution or purchase of a child sex doll.

113 (2) An individual has a right of action against a commercial entity that violates Subsection
114 (1) regardless of whether:

115 (a) the individual brings the action on behalf of the state, an individual, or any other
116 person; or

117 (b) the individual exhausts available administrative remedies.

118 (3) If an individual brings an action against a commercial entity and a court finds that the
119 commercial entity violated Subsection (1), a court may award:

120 (a) injunctive relief;

121 (b) nominal damages;

122 (c) actual damages;

123 (d) reasonable attorney fees and court costs; and

124 (e) if the court finds that the violation of Subsection (1) meets the standard for the
125 imposition of punitive damages, punitive damages.

126 (4) An Internet service provider, affiliate or subsidiary of an Internet service provider,
127 search engine, or cloud service provider does not violate Subsection (1) by providing
128 access to or connection to or from a website or other content on the Internet that violates
129 Subsection (1), if the Internet service provider, affiliate or subsidiary of an Internet
130 service provider, search engine, or cloud service provider is not responsible for the

131 creation of the content that violates Subsection (1).

132 (5) The attorney general:

133 (a) may seek injunctive relief and other equitable relief against a commercial entity that
134 violates Subsection (1); and

135 (b) shall develop and publish guidance or regulations to assist commercial entities in
136 complying with this section.

137 (6) An individual with a claim under this section that satisfies the applicable standards for
138 joinder or class action may combine the claim with one or more individuals with a claim
139 under this section into one action.

140 **Section 3. Effective Date.**

141 This bill takes effect on May 7, 2025.