

**Effective 5/3/2023**

**Part 10**  
**Liability for Publishers and Distributors of Material Harmful to Minors**

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

As used in this chapter:

- (1) "Commercial entity" includes corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized entities.
- (2) "Digitized identification card" means a data file available on any mobile device which has connectivity to the Internet through a state-approved application that allows the mobile device to download the data file from a state agency or an authorized agent of a state agency that contains all of the data elements visible on the face and back of a license or identification card and displays the current status of the license or identification card.
- (3) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.
- (4) "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.
- (5) "Material harmful to minors" is defined as all of the following:
  - (a) any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;
  - (b) material that exploits, is devoted to, or principally consists of descriptions of actual, simulated, or animated display or depiction of any of the following, in a manner patently offensive with respect to minors:
    - (i) pubic hair, anus, vulva, genitals, or nipple of the female breast;
    - (ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or
    - (iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act; and
  - (c) the material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.
- (6) "Minor" means any person under 18 years old.
- (7) "News-gathering organization" means any of the following:
  - (a) an employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, while operating as an employee as provided in this subsection, who can provide documentation of such employment with the newspaper, news publication, or news source; or
  - (b) an employee of a radio broadcast station, television broadcast station, cable television operator, or wire service while operating as an employee as provided in this subsection, who can provide documentation of such employment.
- (8) "Publish" means to communicate or make information available to another person or entity on a publicly available Internet website.
- (9) "Reasonable age verification methods" means verifying that the person seeking to access the material is 18 years old or older by using any of the following methods:
  - (a) use of a digitized information card as defined in this section;
  - (b) verification through an independent, third-party age verification service that compares the personal information entered by the individual who is seeking access to the material that is available from a commercially available database, or aggregate of databases, that is regularly

used by government agencies and businesses for the purpose of age and identity verification;  
or

- (c) any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material.
- (10) "Substantial portion" means more than 33-1/3% of total material on a website, which meets the definition of "material harmful to minors" as defined in this section.
- (11)
  - (a) "Transactional data" means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or event.
  - (b) "Transactional data" includes records from mortgage, education, and employment entities.

Enacted by Chapter 262, 2023 General Session

**78B-3-1002 Liability for publishers and distributors -- Age verification -- Retention of data -- Exceptions.**

- (1) A commercial entity that knowingly and intentionally publishes or distributes material harmful to minors on the Internet from a website that contains a substantial portion of such material shall be held liable if the entity fails to perform reasonable age verification methods to verify the age of an individual attempting to access the material.
- (2) A commercial entity or third party that performs the required age verification shall not retain any identifying information of the individual after access has been granted to the material.
- (3) A commercial entity that is found to have violated this section shall be liable to an individual for damages resulting from a minor's accessing the material, including court costs and reasonable attorney fees as ordered by the court.
- (4) A commercial entity that is found to have knowingly retained identifying information of the individual after access has been granted to the individual shall be liable to the individual for damages resulting from retaining the identifying information, including court costs and reasonable attorney fees as ordered by the court.
- (5) This section shall not apply to any bona fide news or public interest broadcast, website video, report, or event and shall not be construed to affect the rights of a news-gathering organization.
- (6) No Internet service provider, affiliate or subsidiary of an Internet service provider, search engine, or cloud service provider shall be held to have violated the provisions of this section solely for providing access or connection to or from a website or other information or content on the Internet, or a facility, system, or network not under that provider's control, including transmission, downloading, storing, or providing access, to the extent that such provider is not responsible for the creation of the content of the communication that constitutes material harmful to minors.

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***Effective 7/1/2024***

**78B-3-1003 Liability of a parent or guardian for repeated offenses by a minor on school grounds.**

- (1) Except as provided in Subsection (6), if a person suffers damages from a minor committing the same offense repeatedly on school grounds for an offense in Title 76, Utah Criminal Code, or Title 80, Utah Juvenile Code, the person may bring a cause of action against a parent or

guardian with legal custody of the minor to recover costs and damages caused by the repeated offense.

- (2) The parent or guardian is not liable for costs or damages under Subsection (1) if the parent or guardian made a reasonable effort to supervise and direct the minor.
- (3) If a parent or guardian is found liable under this section, the court may waive part or all of the parent's or guardian's liability for costs or damages if the court finds:
  - (a) good cause; or
  - (b) that the parent or guardian reported the minor's wrongful conduct to law enforcement after the parent or guardian knew of the minor's wrongful conduct.
- (4) A report is not required under Subsection (3)(b)(ii) from a parent or guardian if the minor was arrested or apprehended by law enforcement.
- (5) An adjudication or a conviction of a minor for a repeated offense under Title 76, Utah Criminal Code, or Title 80, Utah Juvenile Code, is not required for a civil action to be brought under this section.
- (6) A person may not bring a cause of action against the state, an agency of the state, or a contracted provider of an agency of the state, under this section.

Enacted by Chapter 75, 2024 General Session