

Effective 5/3/2023

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