

Introduced by

Senator Boehm

1 A BILL for an Act to create and enact a new section to chapter 51-07 of the North Dakota
2 Century Code, relating to a commercial entity's liability for publishing or distributing mature
3 content; to provide a penalty; and to provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 51-07 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Liability for publishing or distributing mature content - Age verification requirement -**
8 **Penalty.**

9 1. As used in this section:

- 10 a. "Covered manufacturer" means a manufacturer of a device, operating system for
11 a device, or an application store.
- 12 b. "Device" means an electronic tool or gadget designed for and capable of
13 communicating with other computers or devices across a computer network for
14 the purpose of transmitting, receiving, or storing data, including a desktop
15 computer, laptop computer, tablet, or cell phone.
- 16 c. "Mature content" means actual or simulated sexual intercourse, sodomy,
17 bestiality, oral copulation, flagellation, or excretory functions or exhibitions, or any
18 other sexual act or sexually explicit conduct defined in 18 U.S.C. 2256.
- 19 d. "Minor" means an individual under eighteen years of age.
- 20 e. "Operating system provider" means an entity that develops, distributes, or
21 maintains an operating system for a device. The term includes the design,
22 programming, and supply of an operating system for various devices, including a
23 smartphone, tablet, or other digital equipment.

- 1 f. "Substantial portion" means more than one-third of the total material on a
2 website, application, or online service.
- 3 2. A covered manufacturer shall take commercially reasonable and technically feasible
4 steps to:
- 5 a. Determine or estimate the age of the primary user upon activation of a device;
6 and
- 7 b. Provide a website, application, application store, or online service with a digital
8 signal notifying if a primary user is over or under eighteen years of age through a
9 real-time applications programming interface.
- 10 3. A covered manufacturer shall include in operating system updates the provisions of
11 subdivision a of subsection 2 for any device sold before August 1, 2026.
- 12 4. When a website, application, or online service makes available a substantial portion of
13 mature content, the website, application, or online service shall:
- 14 a. Recognize and receive digital age signals and block access to the website,
15 application, or online service if an age signal is received indicating a user is
16 under eighteen years of age.
- 17 b. Provide a disclaimer that the website, application, or online service contains
18 mature content; and
- 19 c. Label the website, application, or online service as restricted to adults.
- 20 5. When a website, application, or online service makes available less than a substantial
21 portion of mature content, the website, application, or online service shall:
- 22 a. Recognize and receive digital age signals and block access to any known mature
23 content on the website, application, or online service if an age signal is received
24 indicating a user is under eighteen years of age; and
- 25 b. Provide a disclaimer the website, application, or online service contains mature
26 content.
- 27 6. A covered manufacturer shall impose the same restrictions and obligations on a
28 website, application, or online service as the covered manufacturer is required to
29 impose on third parties. A covered manufacturer may not use any data collected under
30 this section for any other purpose.
- 31 7. The attorney general may adopt rules as necessary to enforce this section.

- 1 8. The attorney general has exclusive authority to enforce this section.
- 2 9. If the attorney general believes a covered manufacturer is in violation of this section,
3 the attorney general shall provide written notice to the covered manufacturer
4 identifying the specific provision of this section alleged in the violation. The covered
5 manufacturer has forty-five days from the date of receipt to correct the violation and
6 provide the attorney general a written statement informing the alleged violation has
7 been corrected. The attorney general may initiate an action under this section if the
8 covered manufacturer continues to violate this section or fails to correct a violation and
9 provide a written statement within forty-five days.
- 10 10. A covered manufacturer that violates this section is subject to a fine of ten thousand
11 dollars for each violation.
- 12 11. A covered manufacturer is not subject to liability for failure to comply with this section if
13 the covered manufacturer has taken commercially reasonable and technically feasible
14 steps to determine or estimate the age of a user.
- 15 11. This section does not create a private right of action.
- 16 12. This section does not apply to any bona fide news or public interest broadcast,
17 website video, report, or event, and does not affect the rights of any news-gathering
18 organization.
- 19 13. An internet service provider or its affiliates or subsidiaries, a search engine, or a cloud
20 service provider may not be held to have violated this section solely for providing
21 access or connection to or from a website or other information or content on the
22 internet or a facility, system, or network not under the provider's control, including
23 transmission, downloading, intermediate storage, access software, or other forms of
24 access or storage to the extent the provider is not responsible for the creation of the
25 content of the communication that constitutes mature content.

26 **SECTION 2. EFFECTIVE DATE.** This Act becomes effective August 1, 2026.