HB 1256-FN - AS INTRODUCED

2024 SESSION

24-2248 05/10

HOUSE BILL 1256-FN

AN ACT establishing liability for publishers and distributors of Internet material harmful

to minors.

SPONSORS: Rep. Moffett, Merr. 4; Rep. J. Harvey-Bolia, Belk. 3; Rep. Harley, Rock. 30; Rep.

Calabro, Hills. 45; Rep. Aron, Sull. 4; Rep. Selig, Straf. 10; Rep. Rollins, Sull. 3;

Rep. B. King, Hills. 43; Sen. Lang, Dist 2

COMMITTEE: Judiciary

ANALYSIS

This bill establishes liability for publisher and distributors of Internet material harmful to minors.

Explanation: Matter added to current law appears in **bold italics**.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

establishing liability for publishers and distributors of Internet material harmful AN ACT to minors.

	Be it Enacted by the Senate and House of Representatives in General Court convened:
1	1 New Chapter; Civil Damages for Publication of Material Harmful to Minors. Amend RSA by
2	inserting after chapter 544-C the following new chapter:
3	CHAPTER 544-D
4	CIVIL DAMAGES FOR PUBLICATION OF MATERIAL HARMFUL TO MINORS
5	544-D:1 Definitions. In this chapter:
6	I. "Commercial entity" includes corporations, limited liability companies, partnerships
7	limited partnerships, sole proprietorships, or other legally recognized entities.
8	II. "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or
9	disseminate by any means.
10	III. "Internet" means the international computer network of both federal and non-federal
11	interoperable packet switched data networks.
12	IV. "Material harmful to minors" is defined as all of the following:
13	(a) Any material that the average person, applying contemporary community standards
14	would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is
15	designed to pander to, the prurient interest.
16	(b) Any material that exploits, is devoted to, or principally consists of descriptions of
17	actual, simulated, or animated display or depiction of any of the following, in a manner patently
18	offensive with respect to minors:
19	(1) Pubic hair, anus, vulva, genitals, or nipple of the female breast.
20	(2) Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals.
21	(3) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation
22	flagellation, excretory functions, exhibitions, or any other sexual act.
23	(c) The material taken as a whole lacks serious literary, artistic, political, or scientific
24	value for minors.
25	V. "Minor" means any person under the age of 18 years.
26	VI. "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, who can provide documentation of

such employment with the newspaper, news publication, or associated media source.

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HB 1256-FN - AS INTRODUCED

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An employee of a radio broadcast station, television broadcast station, cable television operator, or wire service, who can provide documentation of such employment. VII. "Publish" means to communicate or make information available to another person or entity on a publicly available Internet website. VIII. "Reasonable age verification methods" include verifying that the person seeking to access the material is 18 years of age or older by using any of the following methods: (a) Provide a "digitized identification card", which means a data file available on any mobile device which has connectivity to the Internet through a state-approved agency or an authorized agent of a state agency that contains all the data elements visible on the face and back of a license or identification card. (b) Require the person attempting to access the material to comply with a commercial age verification system that verifies in one or more of the following ways: (1) Government-issued identification. Any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the information is at least 18 years of age or older. IX. "Substantial portion" means more than 33-1/3 percent of total material on a website, which meets the definition of "material harmful to minors". X. "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. Transactional data can include, but is not limited to records from mortgage, education, and employment entities. 544-D:2 Civil Damages for Publication of Material Harmful to Minors. I. Any commercial entity that knowingly and intentionally publishes or distributes material potentially 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 implement reasonable age verification methods to confirm the age of individuals attempting to access the material. II. Any 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. III. Any commercial entity 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. IV. 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 personal information, including court costs and reasonable attorney fees as ordered by the court.

HB 1256-FN - AS INTRODUCED - Page 3 -

	V.	Thi	is s	ection	shall	not a	pply	to a	any bona f	ide	news o	r pu	blic int	ere	st bro	oadcast,	website
video,	repo	ort,	or	event	and	shall	not	be	construed	l to	affect	the	rights	of	any	news-g	athering
organi	zatio	ns.															

- VI. No Internet service provider, or its affiliates or subsidiaries, 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, intermediate storage, access software, or other to the extent such provider is not responsible for the creation of the content of the communication that constitutes material harmful to minors.
 - 2 Effective Date. This act shall take effect on January 1, 2025.

HB 1256-FN- FISCAL NOTE AS INTRODUCED

AN ACT

relative to establishing liability for publishers and distributors of Internet material harmful to minors.

FISCAL IMPACT: [X] State [] County [] Local [] None

Estimated State Impact - Increase / (Decrease)									
	FY 2024	FY 2025	FY 2026	FY 2027					
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase					
General Fund Revenue Fund(s) Judicial Branch Information Technology Fund, Escrow Fund for Court Improvements									
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase					
Funding Source(s)	General Fund								
Appropriations	\$0	\$0	\$0	\$0					
Funding Source(s)	None								

- Does this bill provide sufficient funding to cover estimated expenditures? [X] No
- Does this bill authorize new positions to implement this bill? [X] No

METHODOLOGY:

This bill establishes liability for publisher and distributors of Internet material harmful to minors. The Judicial Branch indicates that it is not possible to estimate how this bill would impact the number of filings in the courts. Because the bill would establish a new cause of action, it is expected that civil litigation would increase. Common costs and fees for civil cases include the following:

Average Costs	FY 2024	FY 2025			
Superior Court Complex Civil Case	\$1,321	\$1,347			
Superior Court Routine Civil Case	\$494	\$504			
Superior Court Entry Fees		As of 12/12/20			
Original Entry Fee		\$280			
Third-Party Claim		\$280			
Motion to Reopen		\$160			

RSA 490:24 provides that 6 percent of each entry fee shall be deposited into the escrow fund for judicial branch facility improvements, and 30 percent of each entry fee shall be deposited into

the judicial branch information technology fund. The remainder is deposited in the State general fund.

AGENCIES CONTACTED:

Judicial Branch