**South Carolina General Assembly**

124th Session, 2021-2022

**H. 3885**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Pope, Thayer, Yow, Felder, A.M. Morgan, Oremus, Anderson, Bernstein, Trantham, Bryant, McGarry, Simrill, Allison, Bennett and Nutt

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Introduced in the House on February 11, 2021

Currently residing in the House Committee on **Judiciary**

Summary: Child Online Safety Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/11/2021 House Introduced and read first time ([House Journal‑page 19](file:///h:\hj\20210211.docx))

2/11/2021 House Referred to Committee on **Judiciary** ([House Journal‑page 19](file:///h:\hj\20210211.docx))

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**VERSIONS OF THIS BILL**

[2/11/2021](file:///p:\pprever\2021-22\3885_20210211.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “CHILD ONLINE SAFETY ACT”, BY ADDING SECTION 39-5-190 SO AS TO PROVIDE DEFINITIONS, TO PROVIDE THAT IT IS UNLAWFUL FOR AN OPERATOR TO MAKE A PORNOGRAPHIC WEBSITE AVAILABLE TO PERSONS UNDER THE AGE OF EIGHTEEN, TO PROVIDE THAT THE ATTORNEY GENERAL SHALL CREATE CERTAIN PROCEDURES, AND TO PROVIDE FOR CIVIL PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited and must be known as the “Child Online Safety Act”.

SECTION 2. Article 1, Chapter 5 Title 39 of the 1976 Code is amended by adding:

“Section 39-5-190. (A) As used in this section:

(1) ‘Online application’ means an online software program, especially downloaded onto a mobile Internet‑capable device.

(2) ‘Online communication’ is a way in which individuals, as well as computers, can communicate with each other over a computer network or the Internet.

(3) ‘Person’ means an individual, partnership, corporation, trust, estate, cooperative, association, or the like.

(4) ‘Operator’ means a person responsible for a website, online application, or other means of publicly accessible online communication, that is pornographic, created either solely or principally to be pornographic, and made available either free of charge or for a fee.

(5) ‘Pornographic’ means possessing or exhibiting images, actual or simulated, that are the ultimate act of genital, anal, or oral sexual intercourse, masturbation, lewd exhibition of the genitals, or any obscene matter or activity.

(B)(1) It is unlawful for an operator to make any website, online application, or other means of publicly accessible online communication that is pornographic, created either solely or principally to be pornographic, and made available either free of charge or for a fee, accessible to persons under the age of eighteen in this State.

(2) The Attorney General shall prescribe certain age‑verification procedures for operators to follow in order not to violate this section.

(C)(1) By July 1, 2021, the Attorney General shall create procedures in accordance with subsection (B), and make the procedures available on the Attorney General’s webpage or website and shall initiate enforcement procedures.

(2) An operator who violates this section is liable to the State for a civil penalty in an amount not to exceed fifty thousand dollars for a first offense and in an amount not to exceed two hundred thousand dollars for a second offense. The Attorney General may:

(a) seek an injunction to prevent or restrain a violation of this section; or

(b) bring suit to recover the civil penalty imposed.

(3) In determining the penalty, the court shall consider the amount necessary to deter future violations.

(4) The Attorney General may recover reasonable expenses incurred in obtaining an injunction or civil penalty under this section, including court costs and reasonable attorney’s fees.

(5) The Attorney General shall notify the United States Justice Department concerning the operator in violation, specifying reasons for the violation, and include any information as is considered appropriate including possible subsequent violations of United States Code.”

SECTION 3. This act takes effect upon approval by the Governor.

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