

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 812

By Senator Azinger

[Introduced February 16, 2024; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §61-8-33, relating to prohibiting the publishing or distribution of material
3 harmful to minors on the Internet.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-33. Publishing or distributing material harmful to minors on the Internet.

1 (a) For the purposes of this section:

2 (1) "Interactive computer service" means an information service, system, or access
3 software provider that provides or enables computer access by multiple users to a computer
4 server, including a system that provides access to the Internet and cellular phones.

5 (2) "Material harmful to minors" means any description or representation of nudity, sexual
6 conduct, sexual excitement, or sadomasochistic abuse when it:

7 (A) Appeals to the prurient, shameful, or morbid interest of minors;

8 (B) Is patently offensive to prevailing standards in the adult community as a whole with
9 respect to what is suitable material for minors; and

10 (C) Is, when taken as a whole, lacking in serious literary, artistic, political, or scientific value
11 for minors.

12 (b) Any commercial entity that knowingly or intentionally publishes or distributes material
13 harmful to minors on the Internet from a website that contains a substantial portion of such
14 material shall, through the use of a commercially available database that is regularly used by
15 businesses or governmental entities for the purpose of age and identity verification or another
16 commercially reasonable method of age and identity verification, verify that any person attempting
17 to access such material harmful to minors is 18 years of age or older.

18 (c) Any commercial entity that violates the provisions of this section shall be subject to civil
19 liability for damages resulting from a minor's access to such material harmful to a minor and
20 reasonable attorney fees and costs.

- 21 (d) Nothing in this section shall be construed to impose liability on a provider or user of an
22 interactive computer service on the Internet.

NOTE: The purpose of this bill is to prohibit the distribution of pornographic materials to persons under 18.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.