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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1244, L.D. 1873, “An Act to Require Age Verification for Online Obscene Matter”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 10 MRSA c. 239 is enacted to read:

CHAPTER 239

AGE VERIFICATION FOR ONLINE OBSCENE MATTER

§1500-Y. Age verification for online obscene matter

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Business entity" has the same meaning as in Title 24-A, section 1402, subsection 3-A.

B. "Internet service provider" has the same meaning as in Title 5, section 200-B, subsection 1-A, paragraph A.

C. "Obscene matter" has the same meaning as in Title 17, section 2911, subsection 1, paragraph D.

D. "Reasonable age-verification method" means a method for verifying that an individual is 18 years of age or older by:

(1) Requiring the individual to provide a valid, government-issued identification;
or

(2) Requiring the individual to comply with any commercially reasonable age-verification system that relies on transactional data to verify the age of the individual.

1 E. "Remote computing service" has the same meaning as in Title 16, section 641,
2 subsection 7.

3 F. "Substantial portion of obscene matter" means, with respect to a website or Internet
4 software application, that more than 1/3 of the total material on the website or Internet
5 software application is obscene matter.

6 **2. Age verification required.** A business entity that knowingly or intentionally
7 publishes or distributes obscene matter on a website or Internet software application that
8 contains a substantial portion of obscene matter:

9 A. Shall verify that an individual attempting to access obscene matter is 18 years of
10 age or older through reasonable age-verification methods;

11 B. Shall prevent access to obscene matter by an individual who has not attained 18
12 years of age; and

13 C. May not retain, and may not permit a 3rd party that performs the age verification
14 required by paragraph A to retain, identifying information of an individual after
15 verifying the age of the individual.

16 **3. Exceptions.** The requirements of subsection 2 do not apply in the following
17 circumstances.

18 A. The requirements of subsection 2 do not apply to a bona fide news or public interest
19 broadcast, website video, report or event and may not be construed to affect the rights
20 of a news-gathering organization.

21 B. The requirements of subsection 2 do not apply to an Internet service provider, an
22 Internet service provider's affiliates or subsidiaries, a search engine or a remote
23 computing service when that Internet service provider, affiliate, subsidiary, search
24 engine or remote computing service provides access or connection to or from a website
25 or other information or content on the Internet or within a facility, system or network
26 not under the Internet service provider's, affiliate's, subsidiary's, search engine's or
27 remote computing service's control, as long as the Internet service provider, affiliate,
28 subsidiary, search engine or remote computing service is not responsible for creating
29 or manufacturing the obscene matter.

30 **4. Unfair trade practice.** A business entity that violates the requirements of
31 subsection 2 commits an unfair and deceptive act that is a violation of the Maine Unfair
32 Trade Practices Act.'

33 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
34 number to read consecutively.

35 SUMMARY

36 This amendment, which is the minority report of the committee, replaces the bill. The
37 amendment provides that a business entity that knowingly or intentionally publishes or
38 distributes obscene matter on a website or Internet software application for which more
39 than 1/3 of the material is obscene matter:

40 1. Is required to verify that an individual attempting to access obscene matter is 18
41 years of age or older through reasonable age-verification methods;

2. Is required to prevent access to obscene matter by an individual who has not attained 18 years of age; and

3. May not retain, and may not permit a 3rd party that performs the age verification to retain, identifying information of an individual after verifying the age of the individual.

These requirements do not apply to a bona fide news broadcast or public interest broadcast, video, report or event or certain Internet service providers or remote computing services that are not responsible for the manufacture or creation of the obscene matter. A business entity that violates the requirements commits an unfair and deceptive act that is a violation of the Maine Unfair Trade Practices Act.

FISCAL NOTE REQUIRED

(See attached)