

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 382 (Senator Salling)
Judicial Proceedings

Criminal Law - Display of Obscene Materials to Minors - Age Verification

This bill requires a website operator or other person who displays, exhibits, sells, shows, or advertises for sale specified obscene materials (as currently listed under § 11-203(b)(1) and (2) of the Criminal Law Article) to adhere to the latest version of (1) the Institute of Electrical and Electronics Engineers (IEEE) 2089.1 age verification standard or (2) the International Organization for Standardization (ISO) Preliminary Work Item 7732 age verification standard. Violators are guilty of a misdemeanor and subject to the existing statutory penalties for violations of § 11-203.

Fiscal Summary

State Effect: Assuming general compliance, the bill's requirements are not expected to materially affect State finances or operations, including enforcement, the workload of the District Court, and the caseloads of the Office of the Public Defender.

Local Effect: Assuming general compliance, the bill's requirements are not expected to materially affect local finances or operations, including enforcement, the workload of the circuit courts, and the caseloads of State's Attorney's Offices.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law: Section 11-203 of the Criminal Law Article (Sale or Display of Obscene Item to Minor) prohibits a person from willfully or knowingly displaying or exhibiting to a minor an item (1) the cover or content of which is principally made up of an obscene description or depiction of illicit sex or (2) that consists of an

obscene picture of a nude or partially nude figure. A person is also prohibited from willfully or knowingly engaging in the business of displaying, exhibiting, selling, showing, advertising for sale, or distributing these items to a minor. Newsstands or other places of business frequented by minors are subject to a similar prohibition, as specified.

Under the bill, a website operator or other person who displays, exhibits, sells, shows, or advertises for sale an item described above must adhere to the latest version of the IEEE or ISO age verification standard.

Violators of the prohibitions under § 11-203 are guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a \$1,000 maximum fine for a first violation and imprisonment for up to three years and/or a \$5,000 maximum fine for each subsequent violation. A person who fails to meet the age verification standard requirement established under the bill is also subject to this penalty.

Small Business Effect: To the extent that a small business operates a website or otherwise displays, exhibits, sells, shows, or advertises for sale the specified obscene materials, the business must adhere to specified age verification standards. Depending on the cost of compliance with these standards, which is unknown at this time, the bill may have a meaningful impact on small businesses.

Additional Comments: The purpose of the Standard for Online Age Verification is to define a common set of requirements for the conduct of age verification of online users of an information society service to specified levels of assurance.

The IEEE standard establishes a framework for the design, specification, evaluation, and deployment of age verification systems. IEEE defines age verification as a system that relies on hard identifiers and/or verified sources of identification that provide a high degree of certainty in determining the age of a user. The [IEEE standard](#) was published in November 2021.

The ISO is a worldwide federation of national standards bodies. ISO defines age verification as a subset of age assurance (*i.e.*, methods to determine a person's minimum, maximum, or actual age or age range) that refers to the process of age determination by reference to identity attributes associated with a person. Currently, ISO has a [draft standard](#) that (1) has been distributed for review and comment; (2) is subject to change without notice; and (3) may not be referred to as an international standard.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 672 (Delegate Grammer, *et al.*) - Economic Matters.

Information Source(s): Baltimore and Charles counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - January 29, 2024
km/aad

Analysis by: Amber R. Gundlach

Direct Inquiries to:
(410) 946-5510
(301) 970-5510