FISCAL NOTE
PRIVATE COST

I. Department title: Title 15 – Elected Officials
Division title: Division 60 – Attorney General
Chapter title: Chapter 17 – Social Media

Rule number/name:[1]	15 CSR 60-17.020 – Age Verification – Operation of an Internet Platform, Application, or Search Engine
Type of rulemaking:	Proposed

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class that would likely be affected by adoption of the rule:	Classification by type(s) of the business entities that would likely be affected by adoption of the rule:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Three companies are estimated to sell more than 10 million smartphones per year in the United States. Two companies develop the operating systems for the majority of devices.	**Tech Companies**	**$0**
Social media platforms or websites distributing pornographic material online or providing access via search functions. Five large companies control 80% of the online market share.[2]	**Tech Companies**	**$0**
<u>In the Alternative</u> - Social media platforms or websites distributing pornographic material	**Tech Companies**	**Up to $384,000 per month ($4,608,000 on an annual basis) for distributors.**

[1] This fiscal note describes the estimated potential impact of a rulemaking that includes proposed rules 15 CSR 60-17.010 through 15 CSR 60-17.070. The Attorney General's Office (AGO) has determined that proposed rules .010, .040, .050 and .070 do not individually require a fiscal note. As further described herein, the AGO is providing this fiscal note in connection with proposed rules .020, .030, and .060 to assess their potential individual and collective impact. In an effort to provide the maximum amount of notice to the public, this fiscal note is filed with each of proposed rules .020, .030, and .060.

[2] The estimate of fiscal impact is offered in the alternative. This fiscal note is based on the assumption no private entity may claim financial cost from ceasing to engage in illegal activity such as the distribution of pornographic material to minors. *See Dobbs v. Dobbs Tire & Auto Centers, Inc*., 969 S.W.2d 894, 897–98 (Mo.App. E.D. 1998). As such, there is estimated to be no fiscal impact for compliance with this rulemaking.

online or providing access via search functions.		**From $0 to $70 million annually for internet search providers.[3]**

III. WORKSHEET

Impact to Providers of Smartphone Mobile Operating Systems

Due to other states passing laws requiring age verification, large companies that sell more than 10 million smartphones per year and/or provide operating software for mobile devices such as Apple and Google have announced that they will provide parental controls on their devices.[4] As such, there is no estimated additional financial impact to these companies from this rulemaking.

As further explained below, this fiscal note assumes that there is no cost of bringing a commercial operation into conformity with existing law.

Impact to Providers of Internet Pornography (Including Search Engines)

As further explained below, this fiscal note assumes that there is no cost of bringing a commercial operation into conformity with existing law.

Impact to Providers of Internet Pornography - Estimates in the Alternative

Estimates are difficult but reportedly 40 million Americans routinely access internet pornography. Assuming Missouri's population is approximately 2% of the nation, there would be 800,000 routine users of pornography in the state. If an age verification check were performed per user four times per month at .12 cents per check, it would equate to $384,000 per month.[5]

There are an estimated 68 million internet searches for pornography in the United States each day.[6] Assuming 2% of those searches originate in Missouri it would equate to 1.36 million searches. If an age verification check were performed per user each day by an outside vendor at .12 cents per check, it would equate to $4,896,000 per day. However, given the global nature of internet search platforms, compliance would more likely

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[3] Costs over the life of the proposed rule will likely be dramatically lower than the estimate stated above for each subsequent year (perhaps 50% lower with a declining cost trajectory over time). Much of the cost will be initial development costs. Also, emerging technological improvements continue to lower the cost of third-party vendors who provide age verification services.

[4] https://developer.apple.com/support/downloads/Helping-Protect-Kids-Online-2025.pdf https://blog.google/outreach-initiatives/public-policy/google-legislative-proposal-for-keeping-kids-safe-online/#:~:text=Privacy%2Dpreserving%20age%20signal%20shared,user%20might%20be%20a%20minor

[5] https://www.webroot.com/us/en/resources/tips-articles/internet-pornography-by-the-numbers#:~:text=Internet%20Pornography%20Statistics%20in%20the%20United%20States,the%20word%20%22adult%22%20into%20a%20search%20engine. https://www.addictionhelp.com/porn/statistics/#:~:text=Online%20use%3A%20Approximately%2069%25%20of,is%20wrong%3B%2051%25%20disagreed

[6] *Id.*

involve internal development of applicable software. Depending on the size of the search engine company, annual estimates may range from $1 million for smaller companies to tens of millions (estimated $20 to $70 million) for the largest search providers. Finally, if internet search platforms chose to turn on existing "safe search" features, it is possible that the cost of compliance would essentially be $0.

IV. ASSUMPTIONS

The following are assumptions adopted by the Attorney General's Office (AGO) as part of the determination of the cost of the proposed rulemaking.

Reliance on the Fiscal Review of the Joint Committee on Legislative Research

Pursuant to Missouri statute, the Oversight Division of the Joint Committee on Legislative Research is tasked with creating fiscal estimates for legislation pending in the General Assembly. Such fiscal notes are required to include a determination of the cost of legislation to small businesses having fifty or fewer full-time employees. § 23.140, RSMo.

On February 26, 2025, the Oversight Division released a fiscal note assessing the cost to small businesses of House Bill 236 that would require age verification for minors. In view of the fact that the legislation created a new cause of action for private parties, the Oversight Division stated that "Small business law firms could be impacted as a result of this proposal."[7] Oversight did not determine any other impact to small businesses but offered to the following analysis in support of their assessment:

> Oversight notes that according to the 2020 US Census for the State of Missouri, there were 1,379,301 minors ages 0 to 17. Assuming if only 0.1% of the parents of those minors are impacted by the proposed legislation, this could potentially result in 1,379 new liability claims. Oversight could not find any information on the number of potential liability claims related to age-verification methods; therefore, Oversight assumes the number of new claims is ultimately unknown.[8]

For purposes of this fiscal note, the AGO adopts the logic of the Joint Committee on Legislative Research's Oversight Division. Since this proposed rulemaking does not create a cause of action for private parties (as opposed to the house bill summarized above), the AGO assumes no fiscal impact from the age verification portion of the proposed rule.

Companies Engaged in Illegal or Fraudulent Behavior May Not Claim Financial Cost to Comply With Existing Law

The AGO further assumes that there should be no assessment of new cost to internet companies only lately adopting age verification practices as required by this proposed

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[7] https://documents.house.mo.gov/billtracking/bills251/fiscal/fispdf/0209H.04P.ORG.pdf
[8] *Id.*

rule.[9] Missouri law already requires age verification because Missouri law already prohibits "furnishing pornographic material to minors" or "promoting pornography for minors." §§ 573.030–.040, RSMo. The U.S. Supreme Court has long upheld laws just like these. *Ginsberg v. New York*, 390 U.S. 629, 641 (1968). Age verification has long been required in brick-and-mortar stores distributing pornographic material, *see id*., and Missouri's law does not differentiate between brick-and-mortar stores and the internet when it comes to prohibiting companies from providing pornographic material to minors. §§ 573.030–.040.

Assumptions in the Alternative

In an effort to provide the public and private businesses with additional information about the potential fiscal impact of this proposed rulemaking, the AGO offers the following assumptions in the alternative to the zero fiscal estimate based on the assumptions above. The following assumptions are provided to determine a potential impact ***if*** there were to be a cost to private businesses.

Due to the private nature of online pornography sale and consumption by end-users in the State of Missouri, many of the variables needed to assess the cost of this rulemaking are unknown or difficult to quantify. However, the cost to implement age verification processes is becoming less expensive due to recent technological improvements. Some software applications are free (or provided for free as part of a larger digital service package) or offered for nominal costs.[10] Also, the use of valid age tokens may allow verified users to access various websites without additional per entry fees.[11] One commonly published estimate of cost is .12 cents per age verification check, although that number may be lower (as low as .3 cents) and will almost certainly continue to be reduced with the introduction of new technological improvements.[12] Likewise, apps that can be downloaded by users and the use of digital identity wallets have further reduced costs. The reusable nature of apps and identity tokens as well as the ability for one age verification check to be used dozens or hundreds of times further defrays what may be a nominal (e.g. .12 cent) cost of compliance.[13]

It should be noted that large purveyors of pornography like Pornhub have stated that cost of compliance may be millions of dollars per day. Pornhub reportedly has 115 million

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[9] "The principle is well settled that no court will lend its aid to a man who founds his cause of action upon an illegal act. This is a principle founded upon public policy, not for the sake of the defendant, but for the law's sake, and that only." *Sandbothe v. Williams*, 552 S.W.2d 251 (Mo.App.1977) (quoting *Schoene v. Hickam*, 397 S.W.2d 596, 602 (Mo.1966)). The doctrine of *in pari delicto* holds that "anyone who engages in a fraudulent scheme forfeits all rights to protection, either at law or in equity." *Kansas City Operating Corp. v. Durwood*, 278 F.2d 354, 357 (8th Cir.(Mo.)1960); See also, *Clouse v. Myers*, 753 S.W.2d 316, 319 (Mo.App.1988)(neither law nor equity can be invoked to redress a wrong that has resulted from the injured party's own wrongful and illegal conduct). If the parties to a fraud are *in pari delicto*, the law will leave them where it finds them. *Durwood*, 278 F.2d at 358." *Dobbs v. Dobbs Tire & Auto Centers, Inc*., 969 S.W.2d 894, 897–98 (Mo.App. E.D. 1998).

[10] *Manhattan Institute and Technology Scholars, Brief for Respondent as Amicus Curiae in Support of Respondent, Free Speech Coalition, Inc., v. Paxton*, No. 23-1122 (U.S. filed Nov. 22, 2024).

[11] *Id.*

[12] Tony Allen, Declaration, *Free Speech Coalition, Inc., v. Colmenero*, No. 1:23-cv-00917 (W.D. Tex.) D. Ct. Doc. 26-6, (Aug.18, 2023).

[13] *Id.*

visits to its website per day and at a cost of .12 cents per verification, this would come to $13.8 million dollars daily but even taken at face value, the vast majority of these costs are not incurred with the State of Missouri.[14] As noted above, .12 cents may be a high number and is likely to be reduced over time as technology improves. Also, it should be noted that the owners of some large pornographic websites are based outside of Missouri and even outside of the United States so any assessment of projected cost in this fiscal note is provided for informational purposes and likely not required.

[14] *Free Speech Coal., v. Rokita*, 738 F. Supp. 3d 1041, 1049 (S.D. Ind. 2024).