

**Title 15 – ELECTED OFFICIALS**  
**Division 60 – Attorney General**  
**Chapter 17 – Age Verification**

**15 CSR 60-17.010 Purpose**

**PURPOSE:** The attorney general administers and enforces the provisions of the Missouri Merchandising Practices Act (“MMPA”), Chapter 407, RSMo. The attorney general may make rules necessary to the administration and enforcement of the provisions of Chapter 407, RSMo, and, in order to provide notice to the public, may specify the meaning of terms whether or not used in the Act. This rule specifies the meanings of certain terms used in the enforcement of the Act and provides notice to the public of their application. This rule does not contain an exhaustive list of practices that violate the Act. Instead, this rule identifies certain specific practices that violate § 407.020, RSMo.

The MMPA prohibits unlawful, fraudulent and unfair practices in connection with any trade or commerce in the State of Missouri. “[T]he literal words [of the MMPA] cover every practice imaginable and every unfairness to whatever degree.” *Ports Petroleum Co. v. Nixon*, 37 S.W.3d 237, 240 (Mo. banc 2001). The State of Missouri, furthermore, has a “strong interest in protecting children.” *State v. Wright*, 751 S.W.2d 48, 52 (1988). The MMPA may be used to prosecute violations of other statutes, including criminal statutes protecting children from exposure to pornographic materials. Violations of many other laws, especially violations of laws protecting minors from sexually explicit content by commercial actors, are necessarily unfair, deceptive, fraudulent, and otherwise unlawful practices. The Missouri Supreme Court has concluded that the MMPA covers any violation of “any public policy” so long as the violation of that other law “presents a risk” of “substantial injury to consumers.” *Huch v. Charter Commun., Inc.*, 209 S.W.3d 721, 725 (Mo. banc 2009) (quoting 15 CSR 60–8.020(1)).

The attorney general has determined that a rulemaking is necessary to carry out the purposes of the MMPA. Missouri law prohibits “furnishing pornographic material to minors” and “promoting pornography for minors or obscenity.” §§ 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. Yet with the explosion of the internet, companies have found many ways to avoid accountability under Missouri law. It is thus necessary to implement regulations that facilitate enforcement of Missouri’s existing laws.

The internet has enabled companies to skirt compliance with laws protecting minors, which is why access to pornography by minors has exploded in recent years. Between 2006 and 2022, the number of children aged 13 or younger exposed to online pornography doubled, from just over 25% to 54%. See Chiara Sabina, et al., *The Nature and Dynamics of Internet Pornography Exposure for Youth*, 11 *CyberPsychology & Behavior* 691, 692 (2008); Michael B. Robb & Supreet Mann, *Common Sense Media*, *Teens and Pornography* at 5 (2022), <https://perma.cc/YG3L-W3LK>. The average age a child first views online pornography is 12 years old. American College of Pediatricians, *Factsheet: The Impact of Pornography on Children* (Aug. 2024), [https://acpeds.org/assets/positionpapers/factsheet\\_-the-impact-of-pornography-on-children.pdf](https://acpeds.org/assets/positionpapers/factsheet_-the-impact-of-pornography-on-children.pdf). The number of children exposed to online pornography at age 10 or younger increased more than seven-fold during the same time period, from less than 2% in 2008 to 15% by 2022. *Id.* The vast majority—84.4%—of 14- to 18-year-old males and 57% of 14- to 18-year-old females have been exposed to hardcore pornography online, with some studies reporting even higher figures. Paul J. Wright, Bryant Paul & Debby Herbenick, *Preliminary Insights from a U.S. Probability Sample on Adolescents’ Pornography Exposure, Media Psychology, and Sexual Aggression*, 26 *J. of Health Commc’n* 39, 46 (2021). Put simply, when pornography moved online, organizations stopped complying with preexisting laws requiring age verification.

Another factor that makes it easier for companies to skirt compliance with Missouri law is that some of the biggest companies that distribute pornography to minors are located not just outside Missouri, but also outside the United States. For example, one of the largest operators of online pornography, Pornhub, is “the 12th most visited website in the world . . . ahead of Amazon, TikTok, and LinkedIn,” Bradley Saacks, *Inside Pornhub’s Finances*, Semafor (Jul. 27, 2023), <https://perma.cc/EC8Q-3FEU>, and it is owned by a Canadian multinational conglomerate with separate spinoff companies in haven countries.

What is worse, the nature of the material has changed significantly. Material readily accessible to children today is not the “‘girlie’ picture magazines” of previous generations. *Ginsberg*, 390 U.S. at 634. Instead, much of the material online is hardcore pornography of the type that satisfies the Supreme Court’s definition of obscenity—speech that is not constitutionally protected for adults, let alone children. *Id.* at 635. Because of the ubiquity of smart phones, tablets, and the internet, Missouri’s children today “can easily be exposed to the most extreme, misogynistic sex acts imaginable.” David Horsey, *Our Social Experiment: Kids with Access to Hard-Core Porn*, *L.A. Times* (Sept. 3, 2013), <https://www.latimes.com/opinion/topoftheticket/la-xpm-2013-sep-03-la-na-tt-kids-access-porn-20130822-story.html> (last accessed Mar. 25, 2025).

This content has demonstrated negative effects on the brain, similar to the neurological effects seen with gambling addicts, drug addicts, and alcoholics. See Todd Love et al., *Neuroscience of Internet Pornography Addiction: A review and Update*, 5(3) Behavioral Sciences 388 (2015); Simone Kühn & Jürgen Gallinat, *Brain Structure and Functional connectivity associated with pornography consumption: the brain on porn*, JAMA Psychiatry (July 2014), <https://perma.cc/YAE3-WWVB>. “[P]ornography consumption is associated with decreased brain volume in the right striatum, decreased left striatum activation, and lower functional connectivity to the prefrontal cortex.” *Id.* And the effects are most pronounced among minors. “Adolescents are more susceptible to sexually explicit material because of the significant physical, emotional, cognitive, social, spiritual, and sexual changes associated with adolescent development.” Romney, *Screens, Teens, and Porn Scenes*, supra at 52; Jennifer A. Brown & Jonathan Wisco, *The Components of the Adolescent Brain and Its Unique Sensitivity to Sexually Explicit Material*, 72 J. Adolescence 10, 11–12 (2019).

An age-verification rule is necessary not only because companies are flouting Missouri law, but also to give parents adequate tools to protect their children from the many harmful effects of minors viewing pornography. Parents “who have this primary responsibility for children’s well-being are entitled to the support of laws designed to aid discharge of that responsibility.” *Ginsberg*, 390 U.S. at 639. Missouri law already requires age verification. This regulation enhances the tools to facilitate compliance with Missouri law.

This proposed rule clarifies that the failure of an individual or commercial entity to use certain commercially reasonable age verification technology to protect minors in Missouri from accessing sexually explicit content online constitutes an “unfair practice” under the MMPA. Age verification, including online age verification, has long been required to purchase age-restricted items or to engage in other age-restricted activities. The MMPA currently contains other age verification measures such as those relating to the sale of tobacco or vape products or the purchase of precious metals. §§ 407.292; 407.926, RSMo. Furthermore, nothing in this proposed rule limits the ability of adults to view sexually explicit material online. The proposed rule simply requires that purveyors of online pornography take certain minimum, commercially reasonable steps to ensure that they are not recklessly or knowingly inflicting significant (and well documented) harms on Missouri’s children.

## **15 CSR 60-17.020 Definitions**

(1) “**Commercial entity**” includes a corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legally recognized business entity.

(2) **“Distribute”** means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.

(3) **“Minor”** means an individual under 18 years of age.

(4) **“Substantial portion”** means 33% or more of the total amount of data publicly available on a website;

(5) **“News-gathering organization”** includes:

(A) An employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, who is acting within the course and scope of that employment and can provide documentation of that employment with the newspaper, news publication, or news source; and

(B) An employee of a radio broadcast station, television broadcast station, cable television operator, or wire service who is acting within the course and scope of that employment and can provide documentation of that employment.

(6) **“Publish”** means to communicate or make information available to another person or entity on a publicly available internet website.

(7) **“Pornographic for minors”** means any material or performance if the following apply:

(A) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors; and

(B) The material or performance depicts nudity, sexual conduct, the condition of human genitals when in a state of sexual stimulation or arousal, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and

(C) The material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(8) **“Transactional data”** means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or event. The term includes records from mortgage, education, and employment entities.

(9) **“Self-contained sexual content segment”** refers to any delineated section or category of a website or application, accessible through a link on the website or

application, in which a substantial portion of the content contained in that section or category is sexual material harmful to minors.

(10) **“Application”** means a software application or electronic service that a user may run or direct on a mobile device.

(11) **“Mobile device”** means a phone or general purpose tablet that:

- (A) provides cellular or wireless connectivity;
- (B) is capable of connecting to the internet;
- (C) runs a mobile operating system; and
- (D) is capable of running applications through the mobile operating system.

(12) **“Mobile operating system”** means software that:

- (A) manages mobile device hardware resources;
- (B) provides common services for mobile device programs;
- (C) controls memory allocation; and
- (D) provides interfaces for applications to access device functionality.

(13) **“Digital identification”** means information stored on a digital network that may be accessed by a commercial entity and that serves as proof of the identity of an individual.

### **15 CSR 60-17.030 Operation of an Internet Platform, Application, or Search Engine**

(1) It is an unfair, deceptive, fraudulent, or otherwise unlawful practice for any person or commercial entity to operate a website, application, or self-contained sexual content segment, including a social media platform, knowing (or with reckless disregard about the fact) that the website, application, or self-contained sexual content segment contains a substantial portion of material pornographic for minors and is accessible in the State of Missouri, unless such individual or commercial entity uses reasonable age verification methods as described by 15 CSR 60-17.040 to verify that the individual attempting to access the website, application, or self-contained segment of the website or application is 18 years of age or older. This paragraph shall not apply to search engines.

(2) It is an unfair, deceptive, fraudulent, or otherwise unlawful practice for any person or commercial entity to operate a search engine unless the search engine blurs out or makes unavailable images, GIFs, or videos depicting material pornographic for minors that can be viewed from the search engine landing page in the State of

Missouri. This requirement does not apply if the search engine has used reasonable age verification methods as described by 15 CSR 60-17.040 to verify that the individual attempting to access the search engine is 18 years of age or older.

(3) Any person or commercial entity covered by 15 CSR 60-17.030(1) or (2) that performs the age verification, or any third party that performs the age verification required by 15 CSR 60-17.030(1) or (2), may not retain any identifying information of the individual whose age is being verified unless retention of the identifying information is otherwise required by law or a court order.

(4) Any person or commercial entity covered by this chapter that performs the age verification required by 15 CSR 60-17.030(1) or (2), or any third party that performs the age verification required by 15 CSR 60-17.030(1) or (2), must use commercially reasonable methods to secure all information collected and transmitted under this chapter.

#### **15 CSR 60-17.040 Reasonable Age Verification Methods**

(1) A commercial entity that operates a website or application subject to 15 CSR 60-17.030(1) or (2), and any third party that performs age verification under this chapter, shall require an individual to:

(A) provide digital identification; or

(B) comply with a commercial age verification system that verifies age using:

(i) government-issued identification; or

(ii) a commercially reasonable method that relies on public or private transactional data to verify the age of the individual.

(2) A commercial entity may adopt a different method of compliance so long as the entity can establish to the agency in charge of promulgating rules under the MMPA that the alternative method is equally effective. The standard of proof shall be a preponderance of the evidence.

#### **15 CSR 60-17.050 Applicability of this Rule**

(1) This rulemaking does not apply to a bona fide news or public interest broadcast, news recording, report, or event and shall not be construed to affect the rights of a news-gathering organization.

(2) An internet service provider, or its affiliates or subsidiaries, a search engine, or a cloud service provider shall not be held to have violated this rulemaking solely for providing access or connection to or from a website or other information or content on the internet or on a facility, system, or network not under that provider's control, including transmission, downloading, intermediate storage, access software, or other

services to the extent the provider or search engine is not responsible for the creation of the content that constitutes material pornographic to minors.

### **15 CSR 60-17.060 Counting Violations**

(1) For purposes of civil penalties under § 407.100, each time an individual accesses a website, application, or search engine not in compliance with 15 CSR 60-17.030 shall constitute a separate violation, but in no event shall an entity accrue more than \$10,000 in violations in a single day.

### **15 CSR 60-17.070 Requirement to Create Device-Side Verification Option**

(1) It is an unfair, deceptive, fraudulent, or otherwise unlawful practice for any provider or operator of a mobile operating system present on at least 10 million devices in the United States to provide or operate the mobile operating system unless the mobile operating system has the capacity to provide digital age-verification identification as contemplated in 15 CSR 60-17.040 that a website or application can use to comply with 15 CSR 60-17.030.

### **15 CSR 60-17.080 Severability, Construction, and Effective Date**

(1) This chapter applies to the maximum extent permitted by the United States Constitution, the laws of the United States, the Constitution of Missouri, and the laws of Missouri, but no further.

(2) This chapter does not subject any individual or commercial entity to damages or other legal remedies to the extent the individual or commercial entity is protected from those remedies under federal law.

(3) It is not a violation of this chapter if the actions or conduct are taken at the behest of federal agencies, contractors, or employees that are carrying out official duties under federal law if doing so would violate the doctrines of preemption or intergovernmental immunity.

(4) If any application of any provision, word, or clause to any person, commercial entity, or circumstance is found by a court to be invalid, that application alone shall be severed and the remaining possible applications of every provision, word, and clause to all other persons, commercial entities, and circumstances shall remain in force.

(5) This regulation shall become effective 90 days after the final rule is published.

*AUTHORITY: Sections 407.020, RSMo (Supp. 2020), 407.145, RSMo (1993).*

*PUBLIC COST: This rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500).*

*PRIVATE COST: This rule will cost private entities more than five hundred dollars (\$500).*