

The text of proposed rules and changes will appear under this heading. A notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This explanation is set out in the PURPOSE section of each rule. A citation of the legal authority to make rules is also required, and appears following the text of the rule, after the word “Authority.”

Entirely new rules are printed without any special symbology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules that are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close-of-comments date will be used as the beginning day in the ninety- (90-) day count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice, file a new notice of proposed rulemaking, and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

TITLE 15 – ELECTED OFFICIALS
Division 60 – Attorney General
Chapter 18 – Age Verification

PROPOSED RULE

15 CSR 60-18.010 Definitions

PURPOSE: This rule provides definitions for terms used in this chapter.

- (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 eighteen (18) years of age.
- (4) “Substantial portion” means thirty-three percent (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;

(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.

AUTHORITY: section 407.020, RSMo Supp. 2024, and section 407.145, RSMo 2016. Original rule filed April 10, 2025.

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

PRIVATE COST: This rule will not cost private entities more than five hundred dollars (\$500).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Attorney General’s Office, ATTN: Proposed Rulemaking, Supreme Court Building, 207 W. High Street, PO Box 899, Jefferson City, MO 65102, or by email to regulations@ago.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

TITLE 15 – ELECTED OFFICIALS Division 60 – Attorney General Chapter 18 – Age Verification

PROPOSED RULE

15 CSR 60-18.020 Operation of an Internet Platform, Application, or Search Engine

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 does not contain an exhaustive list of practices that violate the Act. Instead, this rule identifies certain specific practices that violate section 407.020, RSMo.

To provide notice to the public of the basis for the attorney general’s actions, the foundation and rationale set forth in this purpose statement also sets forth more fully the purpose and foundation for 15 CSR 60-18.010 through 15 CSR 60-18.070.

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.*, 290 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,” sections 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, sections 573.030–.040, RSMo. 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 thirteen (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. The number of children exposed to online pornography at age ten (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. section 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.

(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 60-18.030 to verify that the individual attempting to access the website, application, or self-contained segment of the website or application is eighteen (18) years of age or older. This section 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 60-18.030 to verify that the individual attempting to access the search engine is eighteen (18) years of age or older.

(3) Any person or commercial entity covered by 15 CSR 60-18.020(1) or (2) that performs the age verification, or any third party that performs the age verification required by 15 CSR 60-18.020(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 60-18.020(1) or (2), or any third party that performs the age verification required by 15 CSR 60-18.020(1) or (2), must use commercially reasonable methods to secure all information collected and transmitted under this chapter.

AUTHORITY: section 407.020, RSMo Supp. 2024, and section 407.145, RSMo 2016. Original rule filed April 10, 2025.

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

PRIVATE COST: The Attorney General's Office estimates costs may range from \$0 to \$4,608,000 annually for social media platforms or websites and \$0 to \$70 million annually for internet search providers.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Attorney General's Office, ATTN: Proposed Rulemaking, Supreme Court Building, 207 W. High Street, PO Box 899, Jefferson City, MO 65102, or by email to regulations@ago.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

- I. Department title:** Title 15 – Elected Officials
Division title: Division 60 – Attorney General
Chapter title: Chapter 18 – Age Verification

Rule number/name:¹	15 CSR 60-18.020 – 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 60-18.015 through 15 CSR 60-18.070. The Attorney General's Office (AGO) has determined that proposed rules .015, .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
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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 involve internal development of applicable software. Depending on the size of the search

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%20of%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.*

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 rule.⁹ Missouri law already requires age verification because Missouri law already

⁷ <https://documents.house.mo.gov/billtracking/bills251/fiscal/fispdf/0209H.04P.ORG.pdf>

⁸ *Id.*

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

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 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

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.*

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

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.

TITLE 15 – ELECTED OFFICIALS
Division 60 – Attorney General
Chapter 18 – Age Verification

PROPOSED RULE

15 CSR 60-18.030 Reasonable Age Verification Methods

PURPOSE: This rule specifies methods by which commercial entities, as defined under this chapter, may comply with age-verification requirements contained in the chapter.

(1) A commercial entity that operates a website or application subject to 15 CSR 60-18.020(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 –

1. Government-issued identification; or

2. 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 the Missouri Merchandising Practices Act (MMPA), Chapter 407, RSMo, that the alternative method is equally effective. The standard of proof shall be a preponderance of the evidence.

AUTHORITY: section 407.020, RSMo Supp. 2024, and section 407.145, RSMo 2016. Original rule filed April 10, 2025.

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

PRIVATE COST: The Attorney General's Office estimates costs may range from \$0 to \$4,608,000 annually for social media platforms or websites and \$0 to \$70 million annually for internet search providers.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Attorney General's Office, ATTN: Proposed Rulemaking, Supreme Court Building, 207 W. High Street, PO Box 899, Jefferson City, MO 65102, or by email to regulations@ago.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE COST**

- I. Department title:** Title 15 – Elected Officials
Division title: Division 60 – Attorney General
Chapter title: Chapter 18 – Age Verification

Rule number/name:¹	15 CSR 60-18.030 – Age Verification – Reasonable Age Verification Methods
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 60-18.015 through 15 CSR 60-18.070. The Attorney General's Office (AGO) has determined that proposed rules .015, .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
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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 involve internal development of applicable software. Depending on the size of the search

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%20disagreeed>

⁶ *Id.*

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 rule.⁹ Missouri law already requires age verification because Missouri law already

⁷ <https://documents.house.mo.gov/billtracking/bills251/fiscal/fispdf/0209H.04P.ORG.pdf>

⁸ *Id.*

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

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 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

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.*

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

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.

TITLE 15 – ELECTED OFFICIALS
Division 60 – Attorney General
Chapter 18 – Age Verification

PROPOSED RULE

15 CSR 60-18.040 Applicability of This Rule

PURPOSE: This rule provides exceptions for certain entities with regard to the age-verification requirements contained in this chapter.

(1) The provisions of 15 CSR 60-18.010 through 15 CSR 60-18.070 do 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.

AUTHORITY: section 407.020, RSMo Supp. 2024, and section 407.145, RSMo 2016. Original rule filed April 10, 2025.

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

PRIVATE COST: This rule will not cost private entities more than five hundred dollars (\$500).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Attorney General's Office, ATTN: Proposed Rulemaking, Supreme Court Building, 207 W. High Street, PO Box 899, Jefferson City, MO 65102, or by email to regulations@ago.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

TITLE 15 – ELECTED OFFICIALS
Division 60 – Attorney General
Chapter 18 – Age Verification

PROPOSED RULE

15 CSR 60-18.050 Counting Violations

PURPOSE: This rule specifies the procedures for, and limitations on, the counting of instances of a violation of any of the provisions of this chapter.

(1) For purposes of civil penalties under section 407.100, RSMo, each time an individual accesses a website, application, or search engine not in compliance with 15 CSR 60-18.020 shall constitute a separate violation, but in no event shall an entity accrue more than ten thousand dollars (\$10,000) in violations

in a single day.

AUTHORITY: section 407.020, RSMo Supp. 2024, and section 407.145, RSMo 2016. Original rule filed April 10, 2025.

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

PRIVATE COST: This rule will not cost private entities more than five hundred dollars (\$500).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Attorney General's Office, ATTN: Proposed Rulemaking, Supreme Court Building, 207 W. High Street, PO Box 899, Jefferson City, MO 65102, or by email to regulations@ago.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

TITLE 15 – ELECTED OFFICIALS
Division 60 – Attorney General
Chapter 18 – Age Verification

PROPOSED RULE

15 CSR 60-18.060 Requirement to Create Device-Side Verification Option

PURPOSE: This rule provides specific requirements for certain mobile operating systems to include the capacity to provide digital age-verification identification.

(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 ten 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 60-18.030 that a website or application can use to comply with 15 CSR 60-18.020.

AUTHORITY: section 407.020, RSMo Supp. 2024, and section 407.145, RSMo 2016. Original rule filed April 10, 2025.

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

PRIVATE COST: The Attorney General's Office estimates costs may range from \$0 to \$4,608,000 annually for social media platforms or websites and \$0 to \$70 million annually for internet search providers.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Attorney General's Office, ATTN: Proposed Rulemaking, Supreme Court Building, 207 W. High Street, PO Box 899, Jefferson City, MO 65102, or by email to regulations@ago.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

- I. Department title:** Title 15 – Elected Officials
Division title: Division 60 – Attorney General
Chapter title: Chapter 18 – Age Verification

Rule number/name:¹	15 CSR 60-18.060 – Age Verification – Requirement to Create Device-Side Verification Option
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 60-18.015 through 15 CSR 60-18.070. The Attorney General's Office (AGO) has determined that proposed rules .015, .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
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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 involve internal development of applicable software. Depending on the size of the search

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%20disagree>

⁶ *Id.*

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.

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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 rule.⁹ Missouri law already requires age verification because Missouri law already

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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

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 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

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).

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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.

TITLE 15 – ELECTED OFFICIALS
Division 60 – Attorney General
Chapter 18 – Age Verification

PROPOSED RULE

15 CSR 60-18.070 Severability, Construction, and Effective Date

PURPOSE: This rule specifies the applicability, severability, and construction of the rules contained in this chapter.

(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.

AUTHORITY: section 407.020, RSMo Supp. 2024, and section 407.145, RSMo 2016. Original rule filed April 10, 2025.

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

PRIVATE COST: This rule will not cost private entities more than five hundred dollars (\$500).

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Attorney General's Office, ATTN: Proposed Rulemaking, Supreme Court Building, 207 W. High Street, PO Box 899, Jefferson City, MO 65102, or by email to regulations@ago.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*