

Representative Thad Claggett  
 Chair of the House Technology and Innovation Committee  
 The Ohio House of Representatives

17 March 2025

Dear Representative Claggett and Honorable Members,

**Evidence – House Bill 84**

We are the global trade body representing suppliers of privacy preserving online age verification technologies. We right to provide technical evidence to inform the committee’s consideration of House Bill 84, and will address specific clauses in the Bill.

**Sec. 2907.312 (A) (8) "Organization"**

Unlike Bills in other states, HB 84 wisely avoids setting a percentage threshold of pornographic content for the scope of the Bill. Other legislation has for example, applied only to websites where over one-third of the content is obscene or harmful to children, but this immediately begs the question, whether up to two-thirds of a site’s content may still be harmless, and therefore not excluded from First Amendment protection. Federal judges and even Supreme Court justices have indicated concerns with the threshold approach.

This coupled with **Sec. 2907.312 (B) (2)** requiring “reasonable age verification methods” to be used before “creating an account or subscription to access *any material or performance that is obscene or harmful to juveniles*” means that this bill only applies when a user seeks access to adult content.

If a website did host harmless, protected free speech as well, then the Bill would still allow a user to create an account or take out a subscription to access that part of the site, without any requirement for age verification. Thus, there is no argument to be made that the Bill’s requirements place any burden on accessing free speech.

**Sec. 2907.312 (A) (10) "Reasonable age verification methods "**

**How do each of the "Reasonable age verification measures" in HB 84 work?**

<p>(a) Verifying that the person attempting to access the material or performance that is obscene or harmful to juveniles is eighteen years of age or older through the use of a commercial age verification system that uses photo identification or public or private transactional data to verify the person’s age;</p>	<p>The user takes a photo of the ID with their smartphone, and then takes a selfie for comparison with the image on the ID. If the two match, then the date of birth on the ID is used to calculate age.</p> <p>Note that this process can be completed entirely by an application on the smartphone,</p>
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	<p>with no need to share any personal data or images with a third party.</p> <p>If the check is processed on a server, all images of the ID and user must be deleted immediately after the check is completed.</p>
<p>(b) Using third-party and governmental databases that use a commercial age verification system that uses photo identification or public or private transactional data to verify the person's age.</p>	<p>This provision will allow for a wide-range of alternative methods, subject to courts accepting they are reliable and accurate.</p> <p>Typically most credit cards are limited to adults, so the user supplies their card details and these are checked for validity. For extra assurance a two-factor authentication process or a micropayment can be used – payments show up on statements.</p>

**Are users forced to give personal information to adult sites?**

No, the essence of age verification is proving your age without disclosing your identity.

In its simplest form, you prove your age to an independent third party age verification provider, who then deletes all your personal data as required by HB 84 and only shares the fact that you are an adult with the websites you wish to visit.

The latest approaches, championed by some European data protection regulators, require the use of “zero-knowledge proof” encryption techniques. These allow a user to prove their age with an electronically signed certificate, but with no possibility of their identity being exposed.

**Isn't this going to be too expensive for these adult websites to implement?**

The UK government's official estimate of the cost per check is 12 cents. The same assessment also predicted that these costs would fall through technological innovation and competition.

**Isn't it inconvenient for adults to prove their age all the time?**

The European Union already funded a project to invest interoperable, re-usable age checks, known as [euCONSENT](#), which it is likely will soon become available in states where age verification is required. Also, you can use a re-usable digital ID, including any mobile drivers license Wyoming may issue or existing privately offered digital IDs, to provide “selective disclosure” of just your age or age-range e.g. “18 or over”.

**Sec. 2907.312 (B) (3) (a) – (d) Location**

These clauses are also innovative new provisions designed to address what we term the “VPN fallacy”

Some adult websites claim they comply with state-mandated age verification laws by blocking access from states where such laws are in effect. However, this claim is misleading so it is referred to as “the VPN fallacy”. In reality, these websites typically block access based only on the geographic location associated with a user’s IP (Internet Protocol) address. This method is easily circumvented through the use of VPNs (Virtual Private Networks), proxy servers, and other tools that can disguise or alter a user’s apparent location.

A VPN allows users to route their internet traffic through servers in other locations, making it appear as if they are browsing from a different state or even a different country. This means that despite a website’s claim of blocking access, users within a state requiring age verification can still easily access adult content simply by using a VPN or similar technology.

### **Why IP-Based Geolocation is Insufficient**

IP addresses provide a rough estimate of a user’s location based on the registered location of their internet service provider (ISP). However, ISPs often allocate IP addresses in ways that do not accurately reflect where users are physically located. This is compounded by the fact that many VPNs and proxy services offer easy-to-use apps that allow users to select an IP address from another state with just a few clicks.

To properly enforce state laws requiring age verification, websites must do more than just rely on IP address geolocation. Instead, they should be required to use state-of-the-art geolocation technology similar to what is used in regulated online gambling industries.

### **Available Technology for Robust Location Verification by a “location-based technology provider”**

Online gambling platforms must ensure that users are physically located in a jurisdiction where betting is legal before allowing them to place bets. These platforms use a combination of technologies to confirm a user’s actual location, including:

- **GPS Data:** If a user is accessing content on a mobile device, their device’s GPS (Global Positioning System) location can provide precise location data.
- **Cell Tower & Wi-Fi Data:** Analyzing nearby cell towers and Wi-Fi networks can help verify a user’s physical presence outside a regulated state.
- **Device Sensors:** Some applications can use barometer readings to detect changes in altitude, helping confirm a user’s physical location.
- **Third-Party Verification Services:** Companies (such as GeoComply) specialize in location compliance and use a combination of these technologies and other available data points to provide high-confidence geolocation verification.

By integrating such techniques, adult websites could be required to perform a similar level of due diligence before exempting a user from an age verification check based on their claimed location at the time the age check is required.

### **How This Can Be Implemented Fairly**

A key concern when discussing location verification is user privacy. Importantly, requiring robust location verification does not mean tracking users at all times. Instead, location data would only be requested at the specific moment when a user would otherwise be required to complete an age verification check. In effect, the user is seeking an exemption from the age verification process by proving they are in a state where it is not legally required.

Additionally, users would need to provide explicit consent before their location data is used. If a user does not wish to share their location, they would simply be required to complete the standard age verification process instead. This ensures that no one is forced to reveal their location unless they voluntarily choose to do so as an alternative to age verification.

Adult website can also choose to block traffic coming via known VPN IP addresses. Lists of these are freely available and more sophisticated prevention is offered by specialist services.

### **Does this affect enforcement?**

No state law requiring age verification includes an exception for children who make use of a VPN. The pornographic sites are still required to prevent them from accessing their content, and remain fully liable for failing to do so. The sites remain liable to both state-led enforcement measures and lawsuits under private right of action. The sites may hope that they can persuade a state judge that IP blocking is sufficient as a defence, while retaining the custom of many users in the state they claim to have blocked, but as this briefing has explained, that is not a technically coherent argument.

Lawmakers should be aware that relying solely on IP address geolocation is ineffective and allows users to easily bypass age verification requirements. The technology already exists to perform reliable location verification without infringing on user privacy. By mandating that adult websites use robust location verification methods similar to those in online gambling, lawmakers can close this loophole and better enforce age verification laws in their states.

### **Summary**

HB 84 is a carefully drafted Bill that is technically accurate in its expectations of the state of the art age verification technologies available today. It has been skillfully designed to avoid constitutional pitfalls that bills with similar objectives have failed to avoid as effectively. It addresses emerging issues around knowing whether a user is in the State of Ohio at the time they are challenged to prove their age.

Yours sincerely

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