MISSISSIPPI LEGISLATURE  
REGULAR SESSION 2020  

By: Representative Arnold  
To: Interstate Cooperation; Judiciary B  

HOUSE BILL NO. 1120  

AN ACT TO AUTHORIZE THE STATE OF MISSISSIPPI TO ENTER INTO AN INTERSTATE COMPACT WITH SOUTHERN STATES FOR THE PURPOSE OF PROHIBITING THE ADVERTISEMENT OF OBSCENE AND PORNOGRAPHIC CONTENT ON SOCIAL MEDIA PLATFORMS; TO ESTABLISH THE INTERSTATE COMMISSION ON OBSCENITIES PROHIBITION AND PRESCRIBE ITS POWERS AND DUTIES; AND FOR RELATED PURPOSES.  

SECTION 1. The following compact of the southern states for the purpose of prohibiting the advertisement of obscene and pornographic content on social media platforms accessed in the southern states, and the same is, hereby ratified and approved:  

WHEREAS, Federal law prohibits obscene, indecent and profane content from being broadcast on the radio or TV, and now in the era of vast expanse of social media, it is necessary to extend that prohibition on such content to all social media platforms;  
and  

WHEREAS, in Jacobellis v. Ohio, 378 U.S. 184 (1964), the Supreme Court's 1964 landmark case on obscenity and pornography, Justice Potter Stewart famously wrote: "I know it when I see it," and that case still influences FCC rules today, and complaints
from the public about broadcasting objectionable content drive the enforcement of those rules; and

WHEREAS, in deciding what's obscene, indecent or profane, it is important to note that each type of content has a distinct definition; and

WHEREAS, obscene content does not have protection by the First Amendment, and as such in order for content to be ruled obscene, it must meet a three-pronged test established by the Supreme Court in Miller v. California, 413 U.S. 15 (1973), which provide that it must: (i) appeal to an average person's prurient interest; (ii) depict or describe sexual conduct in a "patently offensive" way; and (iii) taken as a whole, lack serious literary, artistic, political or scientific value; and

WHEREAS, indecent content portrays sexual or excretory organs or activities in a way that is patently offensive but does not meet the three-prong test for obscenity; and

WHEREAS, profane content includes "grossly offensive" language that is considered a public nuisance; and

WHEREAS, factors in determining how FCC rules apply include the specific nature of the content, the time of day it was broadcast and the context in which the broadcast took place; and

WHEREAS, broadcasting obscene content is prohibited by law at all times of the day, while indecent and profane content are prohibited on broadcast TV and radio between 6 a.m. and 10 p.m.,
when there is a reasonable risk that children may be in the audience; and

WHEREAS, each day, countless people are exposed to sexually explicit content through a wide range of media, often unaware of the health risks posed by such material; and

WHEREAS, as it perpetuates a sexually toxic environment, pornography is a public health hazard leading to a broad spectrum of individual, public and societal harms, and efforts to prevent pornography exposure and addiction, to educate individuals and families concerning its harms, and to develop recovery programs must be addressed systemically in ways that hold broader influences accountable; and

WHEREAS, overcoming the substantial negative impacts of obscene and pornography material through all media outlets, but particularly, social media platforms, is beyond the capability of the afflicted individual to address alone, and its ubiquity has resulted in a host of societal problems and potentially negative health effects, which makes it of paramount importance that our leaders tackle this issue; NOW, THEREFORE,

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

ARTICLE I

PURPOSE

In consideration of the mutual agreements, covenants and obligations assumed by the respective states who are parties hereto (hereinafter referred to as "states"), the said several
states do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting states which, for the purposes of this compact, to constitute a prohibition on the advertisement of obscene and pornographic content on social media platforms, wherein the states which are parties hereto:

(a) Establish ongoing duties for internet service providers and social media platforms that have been interjected into the stream of interstate commerce by virtue of being accessed by any citizen within the compacting states;

(b) Require internet service providers and social media platforms to actively filter and block by default websites and advertisements that are known to facilitate the display of obscene or pornographic material of any kind and nature, and any other sexually explicit material regulated under the Federal Law on Obscenity (18 USCS Section 1460, et seq.) and not protected by the First Amendment to the United States Constitution; and

(c) Provide that blocking capability may be disabled by the individual access to activate or deactivate tracking features in his or her privacy setting on any social media platform.

ARTICLE II

THE COMMISSION

The states do further hereby establish and create a joint commission which shall be known as the Interstate Commission on Obscene Social Media Advertisement (hereinafter referred to as the
"commission"), the members of which commission shall consist of the governor of each state, who shall serve in an ex officio capacity, and four (4) additional citizens of each state to be appointed by the governor thereof, at least one (1) of whom shall be a member of the legislature of that state. The governor shall continue as a member of the commission during his tenure of office as governor of the state, but the members of the commission appointed by the governor shall hold office for a period of four (4) years, except that in the original appointment one (1) commissioner so appointed by the governor shall be designated at the time of his appointment to serve an initial term of three (3) years, but thereafter his successor shall serve the full term of four (4) years. Vacancies on the commission caused by death, resignation, refusal or inability to serve, shall be filled by appointment by the governor for the unexpired portion of the term. The officers of the commission shall be a chairman, a vice chairman, a secretary, a treasurer and such additional officers as may be created by the commission from time to time.

**ARTICLE III**

**POWERS AND DUTIES OF THE COMMISSION**

A. It shall be the duty of the commission to submit plans and recommendations to the states from time to time for their approval and adoption by appropriate legislative action for prohibiting the advertisement of obscene and pornographic content on social media platforms, which such content is regulated under
the Federal Law on Obscenity (18 USCS Section 1460, et seq.) and is not protected by the First Amendment to the United States Constitution, within the geographical limits of the regional area of the states and for such other related purposes, as they may deem and determine to be proper, necessary or advisable.

B. In addition to the power and authority heretofore granted, the commission shall have the power to enter into such agreements or arrangements with any of the states and with any institutions or agencies, as may be required in the judgment of the commission, to provide adequate services for the benefit of the citizens of the respective states residing within the region.

C. The commission shall have such additional and general power and authority as may be vested in it by the states from time to time by legislative enactments of the said states.

D. Any two (2) or more states which are parties of this compact shall have the right to enter into supplemental agreements for the benefit of citizens residing within an area which constitutes a portion of the general region herein created, such agreements to be governed exclusively by such states and to be controlled exclusively by the members of the commission representing such states, provided such agreement is submitted to and approved by the commission prior to the establishment of such agreements.

ARTICLE VI

ELIGIBLE PARTIES AND ENTRY INTO FORCE
This compact shall not take effect or be binding upon any state unless and until it shall be approved by proper legislative action of as many as six (6) or more of the states whose governors have subscribed hereto within a period of eighteen (18) months from the date hereof. When and if six (6) or more states shall have given legislative approval to this compact within said eighteen (18) months period, it shall be and become binding upon such six (6) or more states sixty (60) days after the date of legislative approval by the sixth state and the governors of such six (6) or more states shall name the members of the commission from their states as prescribed in paragraph (a) of the section, and the commission shall then meet on call of the governor of any state approving this compact, at which time the commission shall elect officers, adopt bylaws, appoint committees and otherwise fully organize. Other states whose names are subscribed hereto shall thereafter become parties hereto upon approval of this compact by legislative action within two (2) years from the date hereof, upon such conditions as may be agreed upon at the time.

ARTICLE V

WITHDRAWAL, DEFAULT, AND TERMINATION

A. After becoming effective this compact shall thereafter continue without limitation of time. However, it may be terminated at any time by unanimous action of the states and provided, further, that any state may withdraw from this compact if such withdrawal is approved by its legislature, such withdrawal
to become effective two (2) years after written notice thereof to
the commission accompanied by a certified copy of the requisite
legislative action, but such withdrawal shall not relieve the
withdrawing state from its obligations hereunder accruing up to
the effective date of such withdrawal. Any state so withdrawing
shall ipso facto cease to have any claim to or ownership of any of
the property held or vested in the commission or to any of the
funds of the commission held under the terms of this compact.

B. If any state shall at any time become in default in the
performance of any of its obligations assumed herein or with
respect to any obligation imposed upon said state as authorized by
and in compliance with the terms and provisions of this compact,
all rights, privileges and benefits of such defaulting state, its
members on the commission and its citizens shall ipso facto be and
become suspended from and after the date of such default. Unless
such default shall be remedied and made good within a period of
one (1) year immediately following the date of such default this
compact may be terminated with respect to such defaulting state by
an affirmative vote of three-fourths (3/4) of the members of the
commission (exclusive of the members representing the state in
default), from and after which time such state shall cease to be a
party to this compact and shall have no further claim to or
ownership of any of the property held by or vested in the
commission or to any of the funds of the commission held under the
terms of this compact, but such termination shall in no manner
release such defaulting state from any accrued obligation or otherwise affect this compact or the rights, duties, privileges or obligations of the remaining states thereunder.

C. In witness whereof this compact has been approved and signed by the governors of the several states, subject to the approval of their respective legislatures in the manner prescribed in this section, as of the _____ day of _____________, 2020.

State of Tennessee, State of West Virginia,

By ___________________ By ___________________
Governor Governor

State of Georgia, State of Arkansas,

By ___________________ By ___________________
Governor Governor

State of Louisiana, State of Alabama,

By ___________________ By ___________________
Governor Governor

State of Mississippi, Commonwealth of Kentucky,

By ___________________ By ___________________
Governor Governor

State of Oklahoma,

By ___________________
Governor

SECTION 2. This act shall take effect and be in force from and after July 1, 2020.