

The House Committee on Judiciary offers the following substitute to HB 1296:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 39 of the Official Code of Georgia Annotated, relating to online
2 internet safety, so as to provide for social media age verification; to provide for definitions;
3 to provide for parental permission; to provide for restrictions on minor's social media account
4 activity; to provide for parental supervision; to provide for the Consumer Protection Division
5 of the Department of Law to investigate complaints; to provide for civil remedies; to provide
6 for annual reporting; to provide for exceptions; to provide for redesignation of certain Code
7 sections; to provide for limitations; to provide for related matters; to provide an effective
8 date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 5 of Title 39 of the Official Code of Georgia Annotated, relating to online internet
12 safety, is amended by designating the existing provisions of Chapter 5 as Article 1 of said
13 chapter and adding a new article to read as follows:

H. B. 1296 (SUB)

14 "ARTICLE 2

15 39-5-10.

16 As used in this article, the term:

17 (1) 'Account holder' means a person who has, or opens, an account or profile to use a
18 social media company's platform.

19 (2) 'Division' means the Consumer Protection Division of the Department of Law.

20 (3) 'Georgia account holder' means a person who is a resident of this state and an account
21 holder, including a Georgia minor account holder.

22 (4) 'Georgia minor account holder' means a Georgia account holder who is a minor.

23 (5) 'Georgia resident' means an individual who currently resides in this state.

24 (6) 'Interactive computer service' means an information service, information system, or
25 information access software provider that provides or enables computer access by
26 multiple users to a computer server and provides access to the internet. An interactive
27 computer service includes a web service, a web system, a website, a web application, or
28 a web portal.

29 (7) 'Minor' means an individual under circumstances where a social media company
30 reasonably believes or has actual knowledge that the individual is under the age of 16 and
31 is not emancipated or married. A social media company shall treat an individual as a
32 minor if the social media company verifies that the individual is under the age of 16, as
33 provided in this article.

34 (8) 'Post' means content that an account holder makes available on a social media
35 platform for other account holders or users to view.

36 (9) 'Social media company' means a person or entity that provides a social media
37 platform and is an interactive computer service.

38 (10)(A) 'Social media platform' means a public or semipublic internet based service or
39 application that:

- 40 (i) Has users in Georgia;
- 41 (ii) Connects users in order to allow them to interact socially with each other within
- 42 the service or application; and
- 43 (iii) Allows users to:
- 44 (I) Construct a public or semipublic profile for purposes of signing into and using
- 45 the service or application;
- 46 (II) Populate a list of other users with whom an individual shares a social or virtual
- 47 connection within the system, including subscribing to content related to another
- 48 user; and
- 49 (III) Create or post content viewable by other users, including, but not limited to,
- 50 on message boards, in chat rooms, on video channels, or through a landing page or
- 51 main feed that presents the user with content generated by other users.
- 52 (B) Such term shall not include an online service, website, or application where the
- 53 predominant or exclusive function is:
- 54 (i) Email;
- 55 (ii) A service that, pursuant to its terms of use, does not permit minors to use the
- 56 platform and utilizes commercially reasonable age assurance mechanisms to attempt
- 57 to prohibit minors from becoming account holders or users;
- 58 (iii) A streaming service that provides only licensed media in a continuous flow from
- 59 the service, website, or application to the end user and does not obtain a license to the
- 60 media from a user or account holder by agreement to its terms of service;
- 61 (iv) News, sports, entertainment, or other content that is preselected by the provider
- 62 and not user generated, and any chat, comment, or interactive functionality that is
- 63 provided incidental to, directly related to, or dependent upon provisions of the
- 64 content;
- 65 (v) Online shopping or ecommerce, if the interaction with other users or account
- 66 holders is generally limited to the ability to upload a post and comment on reviews,

- 67 the ability to display lists or collections of goods for sale or wish lists, and any other
68 function that is focused on online shopping or ecommerce rather than interaction
69 between users or account holders;
- 70 (vi) Interactive gaming, virtual gaming, or an online service that allows the creation
71 and uploading of content and the communication related to that content for the
72 purpose of interactive gaming, educational entertainment, or associated entertainment;
- 73 (vii) Photograph editing that has an associated photograph hosting service if the
74 interaction with other users or account holders is generally limited to liking or
75 commenting;
- 76 (viii) Single purpose community groups for public safety if the interaction with other
77 users or account holders is limited to that single purpose and the community group
78 has guidelines or policies against illegal content;
- 79 (ix) Career development opportunities, including professional networking, job skills,
80 learning certifications, and job posting and application services;
- 81 (x) Business-to-business software;
- 82 (xi) A teleconferencing or videoconferencing service that allows reception and
83 transmission of audio and video signals for real-time communication;
- 84 (xii) Cloud storage;
- 85 (xiii) Shared document collaboration;
- 86 (xiv) Cloud computing services, which may include cloud storage and shared
87 document collaboration;
- 88 (xv) Providing access to or interacting with data visualization platforms, libraries, or
89 hubs;
- 90 (xvi) Permitting comments on a digital news website if the news content is posted by
91 only the provider of the digital news website;
- 92 (xvii) Providing or obtaining technical support for a platform, product, or service;
- 93 (xviii) Academic, scholarly, or genealogical research;

- 94 (xix) Internet access and broadband service;
95 (xx) A classified advertising service in which the user is limited to providing the
96 ability to chat, comment, or interact with other users only if it is directly related to the
97 sale of goods; and
98 (xxi) An online, service, website, or application that is used by or under the direction
99 of an educational entity, including a learning management system, a student
100 engagement program, or a subject or skill-specific program, where the majority of the
101 content is created or posted by the provider of the online service, website, or
102 application and the ability to chat, comment, or interact with other users is directly
103 related to the provider's content.
104 (11) 'User' means a person who has access to view all or some of the posts on a social
105 media platform.

106 39-5-11.

107 (a) A social media company shall make commercially reasonable efforts to verify the age
108 of Georgia account holders with a level of certainty appropriate to the risks that arise from
109 the information management practices of the social media company or apply the
110 accommodations afforded to minors pursuant to this article to all account holders.

111 (b) A social media company shall not permit a Georgia resident who is a minor to be an
112 account holder on the social media company's social media platform unless the minor has
113 the express consent of a parent or guardian. Acceptable methods of obtaining express
114 consent from a parent or guardian include:

115 (1) Providing a form for the minor's parent or guardian to sign and return to the digital
116 service provider by common carrier, facsimile, or electronic scan;

117 (2) Providing a toll-free telephone number for the minor's parent or guardian to call to
118 consent;

119 (3) Coordinating a call with a minor's parent or guardian over video conferencing
120 technology;

121 (4) Collecting information related to the government issued identification of the minor's
122 parent or guardian and deleting that information after confirming the identity of the
123 minor's parent or guardian;

124 (5) Allowing the minor's parent or guardian to provide consent by responding to an email
125 and taking additional steps to verify the identity of the minor's parent or guardian; and

126 (6) Any other commercially reasonable method of obtaining consent in light of available
127 technology.

128 (c) Notwithstanding any other provision of this article, a social media company shall not
129 permit a Georgia resident who is a minor to hold or open an account on a social media
130 platform if the minor is ineligible to hold or open an account pursuant to any other
131 provision of state or federal law.

132 39-5-12.

133 For a Georgia minor account holder, a social media company shall prohibit:

134 (1) Adults from direct messaging a Georgia minor account holder unless the minor is
135 already connected to the adult on the service;

136 (2) The display of any advertising in the account based on the Georgia minor account
137 holder's personal information, except age and location; and

138 (3) The collection or use of personal information from the posts, content, messages, text,
139 or usage activities of the account other than information beyond what is adequate,
140 relevant, and reasonably necessary in relation to the purposes for which such information
141 is collected, as disclosed.

142 39-5-13.

143 A social media company shall provide a parent or guardian who has given parental consent
144 for a Georgia minor account holder as provided in this article with a means for the minor
145 account holder or the parent or guardian to initiate account supervision. Such supervision
146 shall include the ability for the parent or guardian to view privacy settings of the minor's
147 account, set daily time limits for the service, schedule breaks, and offer the minor the
148 option to set up parental notifications when the minor reports a person or issue.

149 39-5-14.

150 (a) The division shall receive consumer complaints alleging any violation of this article,
151 and any person may file a consumer complaint with the division that alleges a violation of
152 this article.

153 (b) The division shall investigate a consumer complaint to determine whether a violation
154 of this article has occurred.

155 39-5-15.

156 (a) The division has exclusive authority to administer and enforce the requirements of this
157 article.

158 (b) Subject to the ability to cure an alleged violation of subsection (d) of this Code section,
159 the Attorney General may impose an administrative fine of up to \$2,500.00 for each
160 violation of this article, and the division may bring an action in a court of competent
161 jurisdiction to enforce any provision of this article.

162 (c) In a court action by the division to enforce any provision of this article, the court may:

163 (1) Declare that the act or practice violates a provision of this article;

164 (2) Issue an injunction for a violation of this article;

165 (3) Order any profits, gains, gross receipts, or benefit from a violation of this article to
166 be forfeited and paid to the aggrieved person;

167 (4) Impose a civil penalty of up to \$2,500.00 for each violation of this article;

168 (5) Award damages to the aggrieved person; or

169 (6) Award any other relief that the court considers reasonable and necessary.

170 (d)(1) At least 45 days before the day on which the division initiates an enforcement
171 action against a person who is subject to the requirements of this article, the division shall
172 provide the person with a written notice that identifies each alleged violation and an
173 explanation of the basis for each allegation.

174 (2) Except as provided in paragraph (3) of this subsection, the division shall not initiate
175 an action if the person cures the noticed violation within 45 days after the date on which
176 the person receives the notice by providing the division with a written statement
177 indicating the violation is cured and no further violations will occur.

178 (3) The division may initiate a civil action against a person who:

179 (A) Fails to cure a violation after receiving the written notice described in
180 paragraph (1) of this subsection; or

181 (B) Commits another violation of the same provision after curing a violation and
182 providing a written statement in accordance with paragraph (2) of this subsection.

183 (4) If a court of competent jurisdiction grants judgment or injunctive relief to the
184 division, the court shall award the division:

185 (A) Reasonable attorney fees;

186 (B) Court costs; and

187 (C) Investigative costs.

188 (5) A person who violates an administrative order or court order issued for a violation
189 of this article shall be subject to a civil penalty of not more than \$5,000.00 for each
190 violation. A civil penalty in accordance with this Code section may be imposed in any
191 civil action brought by the division.

192 (6) All moneys received from the payment of a fine or civil penalty imposed and
193 collected pursuant to the provisions of this Code section shall be used by the division to
194 promote consumer protection and education.

195 39-5-16.

196 (a) The division shall compile an annual report that contains:

197 (1) An evaluation of the liability and enforcement provisions of this article, including,
198 but not limited to, the effectiveness of the division's efforts to enforce this article and any
199 recommendations for revisions to this article, including proposals for legislation;

200 (2) A summary of the consumer interactions, protected and not protected by this article,
201 including a list of alleged violations the division has received; and

202 (3) An accounting of:

203 (A) All administrative fines and civil penalties assessed during the year;

204 (B) All administrative fines and civil penalties collected during the year; and

205 (C) The use of funds from all administrative fines and civil penalties collected during
206 the year.

207 (b) The division may update or correct the report as new information becomes available.

208 (c) The division shall maintain the report, which shall be published on its website.

209 39-5-17.

210 Notwithstanding any contract or choice of law provision in a contract, a waiver or
211 limitation, or purported waiver or limitation, shall be void and unenforceable as contrary
212 to public policy, and a court or arbitrator shall not enforce or give effect to any waiver of
213 a protection or requirement pursuant to this article.

214 39-5-18.

215 The provisions of this chapter shall be construed as in addition to and in no way limit or
216 abridge any other rights or remedies available at law or equity."

217 **SECTION 2.**

218 Said chapter is further amended by replacing "chapter" with "article" wherever the former
219 term occurs in:

220 (1) Code Section 39-5-1, relating to definitions; and

221 (2) Code Section 39-5-3, relating to immunity for computer service providers.

222 **SECTION 3.**

223 This Act shall become effective on July 1, 2025.

224 **SECTION 4.**

225 All laws and parts of laws in conflict with this Act are repealed.