

HOUSE BILL No. 1314

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-0.5; IC 24-16.

Synopsis: Social media use by minors. Provides that a social media service may not allow an Indiana resident who is a minor to hold an account with the social media service unless the social media service receives written consent to the minor's use of the social media service from the minor's parent or guardian. Requires a social media service to configure the account of a registered user that the social media service knows, or reasonably should know, is: (1) a minor; and (2) an Indiana resident; in a specified manner. Provides that a social media service that violates these provisions is subject to: (1) an enforcement action by the attorney general; and (2) a civil action by the parent or guardian of the minor with regard to whom the violation pertains. Provides for restrictions on the retention, use, and collection of personal information for purposes of age verification by a social media service and provides that a social media service is subject to a civil action by an individual with regard to whom the social media service violates the restrictions.

Effective: July 1, 2024.

King

January 10, 2024, read first time and referred to Committee on Judiciary.



Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1314



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-0.5-3, AS AMENDED BY P.L.34-2022,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 3. (a) A supplier may not commit an unfair,
4 abusive, or deceptive act, omission, or practice in connection with a
5 consumer transaction. Such an act, omission, or practice by a supplier
6 is a violation of this chapter whether it occurs before, during, or after
7 the transaction. An act, omission, or practice prohibited by this section
8 includes both implicit and explicit misrepresentations.
9 (b) Without limiting the scope of subsection (a), the following acts,
10 and the following representations as to the subject matter of a
11 consumer transaction, made orally, in writing, or by electronic
12 communication, by a supplier, are deceptive acts:
13 (1) That such subject of a consumer transaction has sponsorship,
14 approval, performance, characteristics, accessories, uses, or
15 benefits it does not have which the supplier knows or should
16 reasonably know it does not have.
17 (2) That such subject of a consumer transaction is of a particular



- 1 standard, quality, grade, style, or model, if it is not and if the
2 supplier knows or should reasonably know that it is not.
- 3 (3) That such subject of a consumer transaction is new or unused,
4 if it is not and if the supplier knows or should reasonably know
5 that it is not.
- 6 (4) That such subject of a consumer transaction will be supplied
7 to the public in greater quantity than the supplier intends or
8 reasonably expects.
- 9 (5) That replacement or repair constituting the subject of a
10 consumer transaction is needed, if it is not and if the supplier
11 knows or should reasonably know that it is not.
- 12 (6) That a specific price advantage exists as to such subject of a
13 consumer transaction, if it does not and if the supplier knows or
14 should reasonably know that it does not.
- 15 (7) That the supplier has a sponsorship, approval, or affiliation in
16 such consumer transaction the supplier does not have, and which
17 the supplier knows or should reasonably know that the supplier
18 does not have.
- 19 (8) That such consumer transaction involves or does not involve
20 a warranty, a disclaimer of warranties, or other rights, remedies,
21 or obligations, if the representation is false and if the supplier
22 knows or should reasonably know that the representation is false.
- 23 (9) That the consumer will receive a rebate, discount, or other
24 benefit as an inducement for entering into a sale or lease in return
25 for giving the supplier the names of prospective consumers or
26 otherwise helping the supplier to enter into other consumer
27 transactions, if earning the benefit, rebate, or discount is
28 contingent upon the occurrence of an event subsequent to the time
29 the consumer agrees to the purchase or lease.
- 30 (10) That the supplier is able to deliver or complete the subject of
31 the consumer transaction within a stated period of time, when the
32 supplier knows or should reasonably know the supplier could not.
33 If no time period has been stated by the supplier, there is a
34 presumption that the supplier has represented that the supplier
35 will deliver or complete the subject of the consumer transaction
36 within a reasonable time, according to the course of dealing or the
37 usage of the trade.
- 38 (11) That the consumer will be able to purchase the subject of the
39 consumer transaction as advertised by the supplier, if the supplier
40 does not intend to sell it.
- 41 (12) That the replacement or repair constituting the subject of a
42 consumer transaction can be made by the supplier for the estimate



- 1 the supplier gives a customer for the replacement or repair, if the
 2 specified work is completed and:
- 3 (A) the cost exceeds the estimate by an amount equal to or
 - 4 greater than ten percent (10%) of the estimate;
 - 5 (B) the supplier did not obtain written permission from the
 - 6 customer to authorize the supplier to complete the work even
 - 7 if the cost would exceed the amounts specified in clause (A);
 - 8 (C) the total cost for services and parts for a single transaction
 - 9 is more than seven hundred fifty dollars (\$750); and
 - 10 (D) the supplier knew or reasonably should have known that
 - 11 the cost would exceed the estimate in the amounts specified in
 - 12 clause (A).
- 13 (13) That the replacement or repair constituting the subject of a
 14 consumer transaction is needed, and that the supplier disposes of
 15 the part repaired or replaced earlier than seventy-two (72) hours
 16 after both:
- 17 (A) the customer has been notified that the work has been
 - 18 completed; and
 - 19 (B) the part repaired or replaced has been made available for
 - 20 examination upon the request of the customer.
- 21 (14) Engaging in the replacement or repair of the subject of a
 22 consumer transaction if the consumer has not authorized the
 23 replacement or repair, and if the supplier knows or should
 24 reasonably know that it is not authorized.
- 25 (15) The act of misrepresenting the geographic location of the
 26 supplier by listing an alternate business name or an assumed
 27 business name (as described in IC 23-0.5-3-4) in a local telephone
 28 directory if:
- 29 (A) the name misrepresents the supplier's geographic location;
 - 30 (B) the listing fails to identify the locality and state of the
 - 31 supplier's business;
 - 32 (C) calls to the local telephone number are routinely forwarded
 - 33 or otherwise transferred to a supplier's business location that
 - 34 is outside the calling area covered by the local telephone
 - 35 directory; and
 - 36 (D) the supplier's business location is located in a county that
 - 37 is not contiguous to a county in the calling area covered by the
 - 38 local telephone directory.
- 39 (16) The act of listing an alternate business name or assumed
 40 business name (as described in IC 23-0.5-3-4) in a directory
 41 assistance data base if:
- 42 (A) the name misrepresents the supplier's geographic location;



- 1 (B) calls to the local telephone number are routinely forwarded
2 or otherwise transferred to a supplier's business location that
3 is outside the local calling area; and
4 (C) the supplier's business location is located in a county that
5 is not contiguous to a county in the local calling area.
- 6 (17) The violation by a supplier of IC 24-3-4 concerning
7 cigarettes for import or export.
- 8 (18) The act of a supplier in knowingly selling or reselling a
9 product to a consumer if the product has been recalled, whether
10 by the order of a court or a regulatory body, or voluntarily by the
11 manufacturer, distributor, or retailer, unless the product has been
12 repaired or modified to correct the defect that was the subject of
13 the recall.
- 14 (19) The violation by a supplier of 47 U.S.C. 227, including any
15 rules or regulations issued under 47 U.S.C. 227.
- 16 (20) The violation by a supplier of the federal Fair Debt
17 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
18 rules or regulations issued under the federal Fair Debt Collection
19 Practices Act (15 U.S.C. 1692 et seq.).
- 20 (21) A violation of IC 24-5-7 (concerning health spa services), as
21 set forth in IC 24-5-7-17.
- 22 (22) A violation of IC 24-5-8 (concerning business opportunity
23 transactions), as set forth in IC 24-5-8-20.
- 24 (23) A violation of IC 24-5-10 (concerning home consumer
25 transactions), as set forth in IC 24-5-10-18.
- 26 (24) A violation of IC 24-5-11 (concerning real property
27 improvement contracts), as set forth in IC 24-5-11-14.
- 28 (25) A violation of IC 24-5-12 (concerning telephone
29 solicitations), as set forth in IC 24-5-12-23.
- 30 (26) A violation of IC 24-5-13.5 (concerning buyback motor
31 vehicles), as set forth in IC 24-5-13.5-14.
- 32 (27) A violation of IC 24-5-14 (concerning automatic
33 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 34 (28) A violation of IC 24-5-15 (concerning credit services
35 organizations), as set forth in IC 24-5-15-11.
- 36 (29) A violation of IC 24-5-16 (concerning unlawful motor
37 vehicle subleasing), as set forth in IC 24-5-16-18.
- 38 (30) A violation of IC 24-5-17 (concerning environmental
39 marketing claims), as set forth in IC 24-5-17-14.
- 40 (31) A violation of IC 24-5-19 (concerning deceptive commercial
41 solicitation), as set forth in IC 24-5-19-11.
- 42 (32) A violation of IC 24-5-21 (concerning prescription drug



- 1 discount cards), as set forth in IC 24-5-21-7.
- 2 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 3 appraisals), as set forth in IC 24-5-23.5-9.
- 4 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 5 forth in IC 24-5-26-3.
- 6 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
- 7 as set forth in IC 24-5.5-6-1.
- 8 (36) A violation of IC 24-8 (concerning promotional gifts and
- 9 contests), as set forth in IC 24-8-6-3.
- 10 (37) A violation of IC 21-18.5-6 (concerning representations
- 11 made by a postsecondary credit bearing proprietary educational
- 12 institution), as set forth in IC 21-18.5-6-22.5.
- 13 (38) A violation of IC 24-5-15.5 (concerning collection actions of
- 14 a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.
- 15 (39) A violation of IC 24-14 (concerning towing services), as set
- 16 forth in IC 24-14-10-1.
- 17 (40) A violation of IC 24-5-14.5 (concerning misleading or
- 18 inaccurate caller identification information), as set forth in
- 19 IC 24-5-14.5-12.
- 20 (41) A violation of IC 24-5-27 (concerning intrastate inmate
- 21 calling services), as set forth in IC 24-5-27-27.
- 22 **(42) A violation of IC 24-16-2 (concerning social media**
- 23 **providers), as set forth in IC 24-16-2-3.**
- 24 (c) Any representations on or within a product or its packaging or
- 25 in advertising or promotional materials which would constitute a
- 26 deceptive act shall be the deceptive act both of the supplier who places
- 27 such representation thereon or therein, or who authored such materials,
- 28 and such other suppliers who shall state orally or in writing that such
- 29 representation is true if such other supplier shall know or have reason
- 30 to know that such representation was false.
- 31 (d) If a supplier shows by a preponderance of the evidence that an
- 32 act resulted from a bona fide error notwithstanding the maintenance of
- 33 procedures reasonably adopted to avoid the error, such act shall not be
- 34 deceptive within the meaning of this chapter.
- 35 (e) It shall be a defense to any action brought under this chapter that
- 36 the representation constituting an alleged deceptive act was one made
- 37 in good faith by the supplier without knowledge of its falsity and in
- 38 reliance upon the oral or written representations of the manufacturer,
- 39 the person from whom the supplier acquired the product, any testing
- 40 organization, or any other person provided that the source thereof is
- 41 disclosed to the consumer.
- 42 (f) For purposes of subsection (b)(12), a supplier that provides



1 estimates before performing repair or replacement work for a customer
 2 shall give the customer a written estimate itemizing as closely as
 3 possible the price for labor and parts necessary for the specific job
 4 before commencing the work.

5 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
 6 company or other provider of a telephone directory or directory
 7 assistance service or its officer or agent is immune from liability for
 8 publishing the listing of an alternate business name or assumed
 9 business name of a supplier in its directory or directory assistance data
 10 base unless the telephone company or other provider of a telephone
 11 directory or directory assistance service is the same person as the
 12 supplier who has committed the deceptive act.

13 (h) For purposes of subsection (b)(18), it is an affirmative defense
 14 to any action brought under this chapter that the product has been
 15 altered by a person other than the defendant to render the product
 16 completely incapable of serving its original purpose.

17 SECTION 2. IC 24-16 IS ADDED TO THE INDIANA CODE AS
 18 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 19 2024]:

20 **ARTICLE 16. SOCIAL MEDIA PROVIDERS**

21 **Chapter 1. Definitions**

22 **Sec. 1. The definitions in this chapter apply throughout this**
 23 **article.**

24 **Sec. 2. "Linked account", with respect to an individual's**
 25 **account with a social media service, means another account with**
 26 **the social media service that the individual has designated, through**
 27 **a means provided by the social media service, as an account:**

- 28 (1) from which the individual wishes to receive content;
 29 (2) from which the individual wishes the social media service
 30 to include in recommendations for content provided to the
 31 user by the social media service; or
 32 (3) with which the individual wishes to associate the
 33 individual's account.

34 **Sec. 3. "Minor" means an individual who is less than eighteen**
 35 **(18) years of age.**

36 **Sec. 4. "Mobile credential" has the meaning set forth in**
 37 **IC 9-13-2-103.4.**

38 **Sec. 5. "Reasonable age verification method" means a method**
 39 **of determining that an individual seeking to access a website is not**
 40 **a minor by using one (1) or more of the following methods:**

- 41 (1) A mobile credential.
 42 (2) An independent third party age verification service that



1 compares the identifying information entered by the
 2 individual with material that is available from a commercially
 3 available data base, or an aggregate of data bases, that is
 4 regularly used by government agencies and businesses for the
 5 purpose of age and identity verification.

6 (3) Any commercially reasonable method that relies on public
 7 or private transactional data to verify the age of the
 8 individual.

9 **Sec. 6. (a) "Social media" means an Internet service:**

10 (1) with which an individual can become a registered user by
 11 creating an account;

12 (2) through which a registered user of the service can:

13 (A) disseminate content to registered or nonregistered
 14 users of the service;

15 (B) interact remotely with other registered users of the
 16 service; and

17 (C) designate accounts of other registered users of the
 18 service as linked accounts; and

19 (3) that provides a registered user of the service with:

20 (A) content; or

21 (B) recommendations for content;

22 based on patterns of the registered user's use of the service.

23 (b) The term does not include an Internet service to which one

24 (1) or more of the following apply:

25 (1) The Internet service provides for submission of content by
 26 registered users of the service only in the form of responses to
 27 content created by parties other than registered users of the
 28 service.

29 (2) The Internet service provides for submission of content by
 30 registered users of the service only in the form of:

31 (A) creation of listings for the sale of goods or services; or

32 (B) submission of comments regarding:

33 (i) listings; or

34 (ii) transactions with respect to listings;

35 described in clause (A).

36 (3) The Internet service provides registered users of the
 37 service only with the ability to send and receive electronic
 38 mail.

39 **Sec. 7. "Transactional data" means a sequence of information**
 40 **that documents an exchange, agreement, or transfer between an**
 41 **individual, commercial entity, or third party used for the purpose**
 42 **of satisfying a request or event. The term includes records that**



1 relate to a mortgage, education, or employment.

2 **Chapter 2. Minor Use of Social Media**

3 **Sec. 1. (a) A social media service that receives a request from an**
4 **Indiana resident for creation of an account with the social media**
5 **service shall comply with the following:**

6 (1) The social media service shall use a reasonable age
7 verification method to determine the age of the individual
8 requesting creation of the account.

9 (2) If the social media service determines under subdivision
10 (1) that the individual requesting creation of the account is a
11 minor, the social media service may create the account only
12 if the social media service receives written consent to creation
13 of the account from the minor's parent or guardian.

14 **(b) A social media service shall comply with the following:**

15 (1) The social media service shall use a reasonable age
16 verification method to determine the age of an Indiana
17 resident who holds an account with the social media service
18 that was created before July 1, 2024.

19 (2) If the social media service determines under subdivision
20 (1) that an Indiana resident who holds an account described
21 in subdivision (1) is a minor, the social media service:

22 (A) shall provide notice to the minor that the minor's
23 access to the account will be suspended fourteen (14) days
24 after the date of the notice unless the social media service
25 receives written consent to the minor's use of the social
26 media service from the minor's parent or guardian;

27 (B) shall suspend the minor's access to the account
28 fourteen (14) days after the date of the notice under clause
29 (A) if the social media service does not receive written
30 consent to the minor's use of the social media service from
31 the minor's parent or guardian not later than fourteen (14)
32 days after the date of the notice under clause (A); and

33 (C) if the social media service suspends the minor's access
34 to the account under clause (B), shall restore the minor's
35 access to the account only upon receipt by the social media
36 service of written consent to the minor's use of the social
37 media service from the minor's parent or guardian.

38 **Sec. 2. (a) A social media service shall configure the account of**
39 **a registered user that the social media service knows, or reasonably**
40 **should know, is:**

41 (1) a minor; and

42 (2) an Indiana resident;



1 as described in subsection (b).

2 (b) A social media service shall configure the account of a
3 registered user described in subsection (a) as follows:

4 (1) The social media service may allow the account to receive
5 direct communications only from an account that the user has
6 designated as a linked account.

7 (2) The social media service may not allow the account to
8 appear in the results of a search conducted by a person
9 through the social media service's search utility unless the
10 person holds an account that the user has designated as a
11 linked account.

12 (3) The social media service may not disseminate advertising
13 to the minor through the account.

14 (4) The social media service may not provide:

15 (A) content; or

16 (B) recommendations for content;

17 to the minor through the account.

18 (5) Subject to subsection (d)(3)(B), the social media service
19 shall prohibit the minor from accessing the account during
20 the time period beginning 10:30 p.m., eastern standard time,
21 and ending 6 a.m., eastern standard time.

22 (c) A social media service may not allow a minor to change or
23 bypass an account configuration described in subsection (b).

24 (d) A social media service that knows, or reasonably should
25 know, that a registered user of the social media service is a minor
26 shall provide the minor's parent or guardian with account access
27 credentials that:

28 (1) are separate from the account access credentials provided
29 by the social media service to the minor;

30 (2) allow the parent or guardian to access the minor's account
31 at any time; and

32 (3) allow the parent or guardian to:

33 (A) view all account activity;

34 (B) modify the account configuration described in
35 subsection (b)(5); and

36 (C) set a limit on the number of hours per day during
37 which the minor may access the account.

38 (e) Except as necessary for the social media service's compliance
39 with Indiana or federal law, a social media service may not:

40 (1) collect:

41 (A) directly; or

42 (B) indirectly through collection of data regarding the use



- 1 of the social media service;
 2 (2) use; or
 3 (3) disclose;
 4 personal information (as defined in IC 4-1-6-1) of a registered user
 5 of the social media service that the social media service knows, or
 6 reasonably should know, is a minor.
- 7 **Sec. 3. An owner or operator of a social media service that**
 8 **knowingly and intentionally violates section 1 or section 2 of this**
 9 **chapter commits a deceptive act that is actionable by the attorney**
 10 **general under IC 24-5-0.5 and that is subject to the penalties and**
 11 **remedies available to the attorney general under IC 24-5-0.5.**
- 12 **Sec. 4. (a) If the owner or operator of a social media service**
 13 **violates section 1 or section 2 of this chapter by:**
- 14 (1) allowing an individual who is:
 15 (A) a minor; and
 16 (B) an Indiana resident;
 17 to create or access an account with the social media service in
 18 violation of section 1 of this chapter; or
 19 (2) failing to configure the account of a registered user that
 20 the social media service knows, or reasonably should know, is:
 21 (A) a minor; and
 22 (B) an Indiana resident;
 23 as required by section 2 of this chapter;
 24 a parent or guardian of the minor may bring an action against the
 25 owner or operator of the social media service for the violation.
- 26 **(b) A parent or guardian who prevails in an action under this**
 27 **section is entitled to:**
- 28 (1) either:
 29 (A) actual damages; or
 30 (B) liquidated damages of one thousand dollars (\$1,000);
 31 (2) injunctive relief; and
 32 (3) court costs, reasonable attorney's fees, and other
 33 reasonable expenses of litigation, including expert witness
 34 fees.
- 35 **Sec. 5. (a) A social media service that uses or purports to use a**
 36 **reasonable age verification method for purposes of determining an**
 37 **individual's age under section 1 of this chapter may not:**
- 38 (1) retain identifying information of the individual, unless
 39 retention of the identifying information is required by a court
 40 order;
 41 (2) use identifying information of the individual for any
 42 purpose other than determination of the individual's age; or



1 **(3) collect information other than information that is**
2 **reasonably necessary to determine the individual's age.**
3 **(b) An individual whose identifying information is retained,**
4 **used, or collected in violation of this section may bring an action**
5 **against the person that unlawfully retained, used, or collected the**
6 **individual's identifying information. An individual who prevails in**
7 **an action described in this section is entitled to:**
8 **(1) either:**
9 **(A) actual damages; or**
10 **(B) liquidated damages of one thousand dollars (\$1,000);**
11 **(2) injunctive relief; and**
12 **(3) court costs, reasonable attorney's fees, and other**
13 **reasonable expenses of litigation, including expert witness**
14 **fees.**

