

SENATE BILL NO. 162

BY SENATORS MCMATH, BARROW, CATHEY, CLOUD, CORTEZ, FESI, HARRIS,
HENRY, HEWITT, LAMBERT, MILLIGAN, FRED MILLS, MIZELL,
MORRIS, REESE, SMITH, STINE, WHITE AND WOMACK AND
REPRESENTATIVES GAROFALO AND SCHLEGEL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact Chapter 20 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 51:1751 through 1759, relative to social media; to provide for limitations and restrictions of certain accounts on a social media platform; to provide for age verification of account holders; to provide for parental consent; to provide for enforcement by the Department of Justice; to provide for terms, conditions, definitions, and procedures; to provide relative to implementation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 20 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:1751 through 1759, is hereby enacted to read as follows:

CHAPTER 20. SECURE ONLINE CHILD INTERACTION

AND AGE LIMITATION ACT

§1751. Definitions

For the purposes of this Chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

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

(2) "Director" means the director of the division of public protection of the Department of Justice.

(3) "Division" means the division of public protection of the Department of Justice.

(4) "Educational entity" means a Louisiana public school, a charter school, the Louisiana Schools for the Deaf and Visually Impaired, a private

1 school, a community college, a state college, a state university, or a nonprofit
2 private postsecondary educational institution.

3 (5) "Interactive computer service" means an information service,
4 information system, or information access software provider that provides or
5 enables computer access by multiple users to a computer server and provides
6 access to the internet. An interactive computer service includes a web service,
7 a web system, a website, a web application, or a web portal.

8 (6) "Louisiana account holder" means a person who is a resident of this
9 state and an account holder, including a Louisiana minor account holder.

10 (7) "Louisiana minor account holder" means a Louisiana account holder
11 who is a minor.

12 (8) "Louisiana resident" means an individual who currently resides in
13 this state.

14 (9) "Minor" means an individual under circumstances where a social
15 media company reasonably believes or has actual knowledge that the individual
16 is under the age of sixteen and is not emancipated or married. A social media
17 company shall treat an individual as a minor if the social media company
18 verifies that the individual is under the age of sixteen, as provided in this
19 Chapter.

20 (10) "Post" means content that an account holder makes available on a
21 social media platform for other account holders or users to view.

22 (11) "Social media company" means a person or entity that provides a
23 social media platform that has at least five million account holders worldwide
24 and is an interactive computer service.

25 (12)(a) "Social media platform" means a public or semipublic
26 internet-based service or application that has users in Louisiana and that meets
27 all of the following:

28 (i) The service or application connects users in order to allow users to
29 interact socially with each other within the service or application. A service or
30 application that provides email or direct messaging services, enterprise cloud

1 storage services, enterprise cybersecurity services, educational devices, or
2 enterprise collaboration tools for K-12 schools shall not be considered to meet
3 this criterion on the basis of that function alone.

4 (ii) The service or application allows users to do all of the following:

5 (aa) Construct a public or semipublic profile for purposes of signing into
6 and using the service or application.

7 (bb) Populate a list of other users with whom an individual shares a
8 social or virtual connection within the system, including subscribing to content
9 related to another user.

10 (cc) Create or post content viewable by other users, including but not
11 limited to, on message boards, in chat rooms, on video channels, or through a
12 landing page or main feed that presents the user with content generated by
13 other users.

14 (b) "Social media platform" shall not include an online service, website,
15 or application where the predominant or exclusive function is any of the
16 following:

17 (i) Electronic mail.

18 (ii) A service that, pursuant to its terms of use, does not permit minors
19 to use the platform and utilizes commercially reasonable age assurance
20 mechanisms to attempt to prohibit minors from becoming an account holder or
21 user.

22 (iii) A streaming service that provides only licensed media in a
23 continuous flow from the service, website, or application to the end user and
24 does not obtain a license to the media from a user or account holder by
25 agreement to its terms of service.

26 (iv) News, sports, entertainment, or other content that is preselected by
27 the provider and not user generated, and any chat, comment, or interactive
28 functionality that is provided incidental to, directly related to, or dependent
29 upon provisions of the content.

30 (v) Online shopping or electronic commerce, if the interaction with other

1 users or account holders is generally limited to the ability to upload a post and
2 comment on reviews, the ability to display lists or collections of goods for sale
3 or wish lists, and any other function that is focused on online shopping or
4 electronic commerce rather than interaction between users or account holders.

5 (vi) Interactive gaming, virtual gaming, or an online service that allows
6 the creation and uploading of content and the communication related to that
7 content for the purpose of interactive gaming, educational entertainment, or
8 associated entertainment.

9 (vii) Photograph editing that has an associated photograph hosting
10 service if the interaction with other users or account holders is generally limited
11 to liking or commenting.

12 (viii) Single purpose community groups for public safety if the
13 interaction with other users or account holders is limited to that single purpose
14 and the community group has guidelines or policies against illegal content.

15 (ix) Career development opportunities, including professional
16 networking, job skills, learning certifications, and job posting and application
17 services.

18 (x) Business-to-business software.

19 (xi) A teleconferencing or videoconferencing service that allows reception
20 and transmission of audio and video signals for real-time communication.

21 (xii) Cloud storage.

22 (xiii) Shared document collaboration.

23 (xiv) Cloud computing services, which may include cloud storage and
24 shared document collaboration.

25 (xv) Providing access to or interacting with data visualization platforms,
26 libraries, or hubs.

27 (xvi) Permitting comments on a digital news website if the news content
28 is posted by only the provider of the digital news website.

29 (xvii) Providing or obtaining technical support for a platform, product,
30 or service.

1 (xviii) Academic, scholarly, or genealogical research.

2 (xix) Internet access and broadband service.

3 (xx) A classified advertising service in which the provider of the online
4 service, website, or application is limited to all of the following:

5 (aa) Permitting only the sale of goods.

6 (bb) Prohibiting the solicitation of personal service.

7 (cc) Posting or creating a substantial amount of the content.

8 (dd) Providing the ability to chat, comment, or interact with other users
9 only if it is directly related to the provider's content.

10 (xxi) An online, service, website, or application that is used by or under
11 the direction of an educational entity, including a learning management system,
12 a student engagement program, or a subject or skill-specific program, where the
13 majority of the content is created or posted by the provider of the online service,
14 website, or application and the ability to chat, comment, or interact with other
15 users is directly related to the provider's content.

16 (13) "User" means a person who has access to view all or some of the
17 posts on a social media platform but is not an account holder.

18 §1752. Age requirements for use of social media platform; parental consent

19 A. A social media company shall make commercially reasonable efforts
20 to verify the age of Louisiana account holders with a level of certainty
21 appropriate to the risks that arise from the information management practices
22 of the social media company or apply the accommodations afforded to minors
23 pursuant to this Chapter to all account holders.

24 B. A social media company shall not permit a Louisiana resident who is
25 a minor to be an account holder on the social media company's social media
26 platform unless the minor has the express consent of a parent or guardian.
27 Acceptable methods of obtaining express consent from a parent or guardian
28 include any of the following:

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

1 scan.

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

4 (3) Coordinating a call with a minor's parent or guardian over video
5 conferencing technology.

6 (4) Collecting information related to the government-issued
7 identification of the minor's parent or guardian and deleting that information
8 after confirming the identity of the minor's parent or guardian.

9 (5) Allowing the minor's parent or guardian to provide consent by
10 responding to an e-mail and taking additional steps to verify the identity of the
11 minor's parent or guardian.

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

14 C. Notwithstanding any other provision of this Chapter, a social media
15 company shall not permit a Louisiana resident who is a minor to hold or open
16 an account on a social media platform if the minor is ineligible to hold or open
17 an account pursuant to any other provision of state or federal law.

18 D. The division may adopt rules in accordance with the Administrative
19 Procedure Act that provide examples of all of the following:

20 (1) Acceptable processes or means by which a social media company may
21 meet the age verification requirements of this Chapter, including adjusting for
22 new technologies.

23 (2) Acceptable forms or methods of identification for individuals to
24 verify that they are over the age of sixteen, which may not be limited to a valid
25 identification card issued by a government entity.

26 (3) Acceptable processes or means to confirm that a parent or guardian
27 has provided consent for the minor to open or use an account pursuant to this
28 Section.

29 §1753. Prohibition on data collection for certain accounts and advertising

30 For a Louisiana minor account holder, a social media company shall

1 prohibit all of the following:

2 (1) Adults from direct messaging a Louisiana minor account holder
3 unless the minor is already connected to the adult on the service.

4 (2) The display of any advertising in the account based on the Louisiana
5 minor account holder's personal information, except age and location.

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

10 §1754. Parental access to social media account settings; parental supervision

11 A social media company shall provide a parent or guardian who has
12 given parental consent for a Louisiana minor account holder as provided in this
13 Chapter with a means for the minor account holder or the parent or guardian
14 to initiate account supervision. Such supervision shall include the ability for the
15 parent to view privacy settings of the minor's account, set daily time limits for
16 the service, schedule breaks, and offer the minor the option to set up parental
17 notifications when the minor reports a person or issue.

18 §1755. Investigative powers of the division

19 A. The division shall receive consumer complaints alleging any violation
20 of this Chapter, and any person may file a consumer complaint with the division
21 that alleges a violation of this Chapter.

22 B. The division shall investigate a consumer complaint to determine
23 whether a violation of this Chapter has occurred.

24 §1756. Enforcement powers of the division

25 A. The division has exclusive authority to administer and enforce the
26 requirements of this Chapter.

27 B. Subject to the ability to cure an alleged violation of Subsection D of
28 this Section, the division director may impose an administrative fine of up to
29 two thousand five hundred dollars for each violation of this Chapter, and the
30 division may bring an action in a court of competent jurisdiction to enforce any

1 provision of this Chapter.

2 C. In a court action by the division to enforce any provision of this
3 Chapter, the court may do any of the following:

4 (1) Declare that the act or practice violates a provision of this Chapter.

5 (2) Issue an injunction for a violation of this Chapter.

6 (3) Order any profits, gains, gross receipts, or benefit from a violation
7 of this Chapter to be forfeited and paid to the aggrieved person.

8 (4) Impose a civil penalty of up to two thousand five hundred dollars for
9 each violation of this Chapter.

10 (5) Award damages to the aggrieved person.

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

13 D.(1) At least forty-five days before the day on which the division
14 initiates an enforcement action against a person that is subject to the
15 requirements of this Chapter, the division shall provide the person with a
16 written notice that identifies each alleged violation and an explanation of the
17 basis for each allegation.

18 (2) Except as provided in Paragraph (3) of this Subsection, the division
19 shall not initiate an action if the person cures the noticed violation within forty-
20 five days after the date on which the person receives the notice by providing the
21 division with a written statement indicating the violation is cured and no further
22 violations will occur.

23 (3) The division may initiate a civil action against a person who does
24 either of the following:

25 (a) Fails to cure a violation after receiving the written notice described
26 in Paragraph (1) of this Subsection.

27 (b) Commits another violation of the same provision after curing a
28 violation and providing a written statement in accordance with Paragraph (2)
29 of this Subsection.

30 (4) If a court of competent jurisdiction grants judgment or injunctive

1 relief to the division, the court shall award the division all of the following:

2 (a) Reasonable attorney fees.

3 (b) Court costs.

4 (c) Investigative cost.

5 (5) A person who violates an administrative order or court order issued
 6 for a violation of this Chapter shall be subject to a civil penalty of not more than
 7 five thousand dollars for each violation. A civil penalty in accordance with this
 8 Section may be imposed in any civil action brought by the division.

9 (6) All monies received from the payment of a fine or civil penalty
 10 imposed and collected pursuant to the provisions of this Section shall be used
 11 by the division to promote consumer protection and education.

12 §1757. Annual report

13 A. The division shall compile an annual report that contains all of the
 14 following information:

15 (1) An evaluation of the liability and enforcement provisions of this
 16 Chapter, including but not limited to the effectiveness of the division's efforts
 17 to enforce this Chapter and any recommendations for revisions to this Chapter,
 18 including proposals for legislation.

19 (2) A summary of the consumer interactions, protected and not protected
 20 by this Chapter, including a list of alleged violations the division has received.

21 (3) An accounting of all of the following:

22 (a) All administrative fines and civil penalties assessed during the year.

23 (b) All administrative fines and civil penalties collected during the year.

24 (c) The use of funds from all administrative fines and civil penalties
 25 collected during the year.

26 B. The division may update or correct the report as new information
 27 becomes available.

28 C. The division shall maintain the report, which shall be published on its
 29 website.

30 §1758. Waiver; prohibited

1 Notwithstanding any contract or choice of law provision in a contract,
 2 a waiver or limitation, or purported waiver or limitation, of any of the following
 3 shall be void and unenforceable as contrary to public policy, and a court or
 4 arbitrator shall not enforce or give effect to the waiver:

5 (1) A protection or requirement pursuant to this Chapter.

6 (2) The right to cooperate with the division or to file a complaint with the
 7 division.

8 §1759. Subject to appropriation

9 The implementation of this Chapter shall be subject to the appropriation
 10 of funds by the legislature for this purpose.

11 Section 2. The provisions of this Act shall be given prospective application only.

12 Section 3. This Act shall become effective on July 1, 2024.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____