

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 376

Representatives Grim, McNally

**Cosponsors: Representatives Forhan, Dell'Aquila, Isaacsohn, Upchurch, Jarrells,
Somani, Baker, Galonski, Brennan, Brewer, Abdullahi, Miller, J., Mohamed**

A BILL

To amend sections 4109.01 and 4109.06 and to enact 1
sections 1349.10, 4109.23, 4109.231, 4109.232, 2
and 4109.233 of the Revised Code to require 3
vloggers to hold in a trust account a portion of 4
compensation earned from any content featuring 5
minors and to name this act the Kidfluencer 6
Protection Act. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4109.01 and 4109.06 be amended 8
and sections 1349.10, 4109.23, 4109.231, 4109.232, and 4109.233 9
of the Revised Code be enacted to read as follows: 10

Sec. 1349.10. (A) As used in this section, "account 11
holder," "bank," "corporate fiduciary," "online platform," 12
"operator," "payment account," "trust company," "vlog," "vlog 13
compensation," and "vlogging account" have the same meanings as 14
in section 4109.01 of the Revised Code. 15

(B) In accordance with division (C) of this section, the 16
operator of an online platform that provides vlog compensation 17

to a payment account shall provide the account holder with an 18
itemized statement that clearly indicates all of the following: 19

(1) Identifying information for each vlog that generated 20
vlog compensation, such as the vlog's internet address or any 21
other unique identifier used by the online platform; 22

(2) The dollar amount of vlog compensation generated by 23
each vlog; 24

(3) The account name and electronic mail address 25
associated with the vlogging account that published each vlog 26
that generated vlog compensation; 27

(4) That the operator of the online platform is providing 28
the vlog compensation in connection to the vlog or vlogs 29
identified in division (B)(1) of this section; 30

(5) That the operator of the online platform is providing 31
the vlog compensation for the benefit of the vlogging account, 32
even if the vlogging account and the payment account share the 33
same account name or electronic mail address. 34

(C) (1) An operator of an online platform that provides 35
vlog compensation to a payment account shall provide the 36
information required by division (B) of this section to the 37
account holder each time the operator disburses compensation to 38
that payment account. 39

(2) In addition, the operator of an online platform that 40
requires an account holder to initiate the withdrawal or 41
transfer of funds in a payment account to a bank, trust company, 42
or other corporate fiduciary shall provide the information 43
required by division (B) of this section at least once every 44
thirty days to the account holder of any payment account that 45
has accrued compensation during that thirty-day period. 46

Sec. 4109.01. As used in this chapter:	47
(A) <u>"Account holder" means any person, family,</u>	48
<u>proprietorship, partnership, or other corporate entity that owns</u>	49
<u>or controls a payment account.</u>	50
(B) <u>"Bank" and "trust company" have the same meanings as</u>	51
<u>in section 1101.01 of the Revised Code.</u>	52
(C) <u>"Corporate fiduciary" means any of the following:</u>	53
(1) <u>A trust company;</u>	54
(2) <u>The trust department of a bank, savings bank, savings</u>	55
<u>and loan association, or foreign banking corporation qualified</u>	56
<u>and licensed under section 1119.02 of the Revised Code to</u>	57
<u>conduct operations in this state connected to its banking</u>	58
<u>business;</u>	59
(3) <u>A national bank or federally chartered savings and</u>	60
<u>loan association or savings bank that is authorized by the</u>	61
<u>appropriate federal agency to accept and execute trusts and that</u>	62
<u>has its principal place of business in this state;</u>	63
(4) <u>Any person that is required to and has received a</u>	64
<u>license to exercise trust powers under section 1111.06 of the</u>	65
<u>Revised Code.</u>	66
(D) <u>"Employ" means to permit or suffer to work.</u>	67
(B) -(E) <u>"Employer" means the state, its political</u>	68
<u>subdivisions, and every person who employs any individual.</u>	69
(C) -(F) <u>"Enforcement official" means the director of</u>	70
<u>commerce or the director's authorized representative, the</u>	71
<u>superintendent of public instruction or the superintendent's</u>	72
<u>authorized representative, any school attendance officer, any</u>	73

probation officer, the director of health or the director of 74
health's authorized representative, and any representative of a 75
local department of health. 76

(G) "Family" means a group of persons related by blood or 77
marriage, including civil partnerships, or whose close 78
relationships with each other is considered equivalent to a 79
family relationship by the individuals. 80

~~(D)~~ (H) "Minor" means any person less than eighteen years 81
of age. 82

(I) "Online platform" means any public-facing web site, 83
web application, or digital application, including a mobile 84
application. "Online platform" includes an advertising network, 85
mobile operating system, search engine, electronic mail service, 86
internet access service, or social media. 87

~~(E)~~ (J) "Operator" means any person, proprietorship, 88
partnership, or other corporate entity that operates an online 89
platform that disburses vlog compensation. 90

(K) "Payment account" means an account associated with an 91
online platform to which all of the following apply: 92

(1) The account is associated with at least one vlogging 93
account; 94

(2) The account holder, which may be the owner of an 95
associated vlogging account or another person, may use the 96
account to receive, manage, or transfer vlog compensation. 97

(L) "Publishing minor" means a minor who resides in this 98
state and, independently or together with one or more other 99
minors, does both of the following: 100

(1) Creates and publishes a vlog; 101

(2) Retains control of the vlogging account used to 102
publish that vlog. 103

(M) "Seasonal amusement or recreational establishment" 104
means both of the following: 105

(1) An amusement or recreational establishment that does 106
not operate for more than seven months in any calendar year; 107

(2) An amusement or recreational establishment whose 108
average receipts for any six months during the preceding 109
calendar year were not more than thirty-three and one-third per 110
cent of its average receipts for the other six months of that 111
calendar year. 112

(N) "Social media" means a service, platform, or web site 113
where users communicate with one another free of charge and 114
share media such as pictures, videos, music, and blogs. 115

(O) "Vlog" means video content shared on an online 116
platform in exchange for compensation. 117

(P) "Vlog compensation" means funds disbursed by the 118
operator of an online platform to a payment account in 119
connection with a vlog created and published by a publishing 120
minor. "Vlog compensation" includes disbursements based on 121
advertising, revenue sharing, subscriptions, view counts, tips, 122
memberships, or other similar metrics. 123

(Q) (1) "Vlogger" means an individual or family that 124
resides in Ohio and that creates video content that is published 125
as a vlog. 126

(2) "Vlogger" includes any proprietorship, partnership, 127
company, or other corporate entity assuming the name or identity 128
of a particular individual or family for the purposes of that 129

<u>content creation.</u>	130
<u>(3) "Vlogger" does not include any person who is a minor.</u>	131
<u>(R) "Vlogging account" means any account, profile, or user that publishes vlogs to an online platform.</u>	132 133
<u>(S) "Vlogging minor" means a natural person who meets all of the following criteria during a calendar year:</u>	134 135
<u>(1) The person was a minor at any point in the calendar year;</u>	136 137
<u>(2) (a) The person's likeness, name, or photograph is included in at least thirty per cent of a vlogger's compensated video content published within a thirty-day period during the calendar year.</u>	138 139 140 141
<u>(b) Content percentage is measured by the percentage of time the likeness, name, or photograph of the person visually appears in, or is the subject of an oral narrative included in, a video in comparison to the total length of the video.</u>	142 143 144 145
<u>(3) The person's likeness, name, or photograph is included in videos published in the calendar year in question for which a vlogger received compensation equal to or greater than one-tenth of one cent per view.</u>	146 147 148 149
Sec. 4109.06. (A) This chapter does not apply to the following:	150 151
(1) Minors who are students working on any properly guarded machines in the manual training department of any school when the work is performed under the personal supervision of an instructor;	152 153 154 155
(2) Students participating in a career-technical or STEM	156

program approved by the Ohio department of education or students	157
participating in any eligible classes through the college credit	158
plus program established under Chapter 3365. of the Revised Code	159
that include a state-recognized pre-apprenticeship program that	160
imparts the skills and knowledge needed for successful	161
participation in a registered apprenticeship occupation course;	162
(3) A minor participating in a play, pageant, or concert	163
produced by an outdoor historical drama corporation, a	164
professional traveling theatrical production, a professional	165
concert tour, or a personal appearance tour as a professional	166
motion picture star, or as an actor or performer in motion	167
pictures or in radio or television productions in accordance	168
with the rules adopted pursuant to division (A) of section	169
4109.05 of the Revised Code;	170
(4) The participation, without remuneration of a minor and	171
with the consent of a parent or guardian, in a performance given	172
by a church, school, or academy, or at a concert or	173
entertainment given solely for charitable purposes, or by a	174
charitable or religious institution;	175
(5) Minors who are employed by their parents in	176
occupations other than occupations prohibited by rule adopted	177
under this chapter;	178
(6) Minors engaged in the delivery of newspapers to the	179
consumer;	180
(7) Minors who have received a high school diploma or a	181
certificate of attendance from an accredited secondary school or	182
a certificate of high school equivalence;	183
(8) Minors who are currently heads of households or are	184
parents contributing to the support of their children;	185

(9) Minors engaged in lawn mowing, snow shoveling, and other related employment;	186 187
(10) Minors employed in agricultural employment in connection with farms operated by their parents, grandparents, or guardians where they are members of the guardians' household. Minors are not exempt from this chapter if they reside in agricultural labor camps as defined in section 3733.41 of the Revised Code;	188 189 190 191 192 193
(11) Students participating in a program to serve as precinct officers as authorized by section 3501.22 of the Revised Code;	194 195 196
<u>(12) Vlogging minors, except as provided in sections 4109.23 and 4109.231.</u>	197 198
(B) Sections 4109.02, 4109.08, 4109.09, and 4109.11 of the Revised Code do not apply to the following:	199 200
(1) Minors who work in a sheltered workshop operated by a county board of developmental disabilities;	201 202
(2) Minors performing services for a nonprofit organization where the minor receives no compensation, except for any expenses incurred by the minor or except for meals provided to the minor;	203 204 205 206
(3) Minors who are employed in agricultural employment and who do not reside in agricultural labor camps.	207 208
(C) Division (D) of section 4109.07 of the Revised Code does not apply to minors who have their employment hours established as follows:	209 210 211
(1) A minor adjudicated to be an unruly child or delinquent child who, as a result of the adjudication, is placed	212 213

on probation may either file a petition in the juvenile court in 214
whose jurisdiction the minor resides, or apply to the 215
superintendent or to the chief administrative officer who issued 216
the minor's age and schooling certificate pursuant to section 217
3331.01 of the Revised Code, alleging the restrictions on the 218
hours of employment described in division (D) of section 4109.07 219
of the Revised Code will cause a substantial hardship or are not 220
in the minor's best interests. Upon receipt of a petition or 221
application, the court, the superintendent, or the chief 222
administrative officer, as appropriate, shall consult with the 223
person required to supervise the minor on probation. If after 224
that consultation, the court, the superintendent, or the chief 225
administrative officer finds the minor has failed to show the 226
restrictions will result in a substantial hardship or that the 227
restrictions are not in the minor's best interests, the court, 228
the superintendent, or the chief administrative officer shall 229
uphold the restrictions. If after that consultation, the court, 230
the superintendent, or the chief administrative officer finds 231
the minor has shown the restricted hours will cause a 232
substantial hardship or are not in the minor's best interests, 233
the court, the superintendent, or the chief administrative 234
officer shall establish differing hours of employment for the 235
minor and notify the minor and the minor's employer of those 236
hours, which shall be binding in lieu of the restrictions on the 237
hours of employment described in division (D) of section 4109.07 238
of the Revised Code. 239

(2) Any minor to whom division (C)(1) of this section does 240
not apply may either file a petition in the juvenile court in 241
whose jurisdiction the person resides, or apply to the 242
superintendent or to the chief administrative officer who issued 243
the minor's age and schooling certificate pursuant to section 244

3331.01 of the Revised Code, alleging the restrictions on the 245
hours of employment described in division (D) of section 4109.07 246
of the Revised Code will cause a substantial hardship or are not 247
in the minor's best interests. 248

If, as a result of a petition or application, the court, 249
the superintendent, or the chief administrative officer, as 250
appropriate, finds the minor has failed to show such 251
restrictions will result in a substantial hardship or that the 252
restrictions are not in the minor's best interests, the court, 253
the superintendent, or the chief administrative officer shall 254
uphold the restrictions. If the court, the superintendent, or 255
the chief administrative officer finds the minor has shown the 256
restricted hours will cause a substantial hardship or are not in 257
the minor's best interests, the court, the superintendent, or 258
the chief administrative officer shall establish the hours of 259
employment for the minor and shall notify the minor and the 260
minor's employer of those hours. 261

(D) Section 4109.03, divisions (A) and (C) of section 262
4109.02, and division (B) of section 4109.08 of the Revised Code 263
do not apply to minors who are sixteen or seventeen years of age 264
and who are employed at a seasonal amusement or recreational 265
establishment. 266

(E) As used in this section, "certificate of high school 267
equivalence" means either: 268

(1) A statement issued by the department of education that 269
the holder of the statement has achieved the equivalent of a 270
high school education as measured by scores obtained on a high 271
school equivalency test approved by the department pursuant to 272
division (B) of section 3301.80 of the Revised Code; 273

(2) A statement issued by a primary-secondary education or 274
higher education agency of another state that the holder of the 275
statement has achieved the equivalent of a high school education 276
as measured by scores obtained on a similar nationally 277
recognized high school equivalency test. 278

Sec. 4109.23. (A) (1) A vlogger whose content features a 279
vlogging minor shall maintain all of the following records for 280
each calendar year: 281

(a) The name and documentary proof of the age of each 282
vlogging minor the vlogger featured; 283

(b) The number of vlogs that featured a vlogging minor 284
that generated compensation during a calendar year; 285

(c) The total number of minutes of video for which the 286
vlogger received compensation during the reporting period; 287

(d) The total number of minutes each vlogging minor 288
featured by the vlogger was featured in vlogs during the 289
reporting period; 290

(e) The total compensation generated from vlogs featuring 291
each vlogging minor during the reporting period; 292

(f) The amount deposited into a trust account for the 293
benefit of the vlogging minor, as required by section 4109.231 294
of the Revised Code. 295

(2) Not later than the first day of March each year, a 296
vlogger shall provide to each vlogging minor who was featured in 297
a video published by the vlogger in the previous calendar year 298
the information required in division (A) (1) of this section that 299
relates to that minor. 300

(B) A vlogging minor may commence a civil action against a 301

vlogger who fails to comply with division (A) of this section to 302
enforce the provisions of this section. 303

Sec. 4109.231. (A) As used in this section, "minimum 304
contribution" means one-half of the percentage of time the 305
likeness, name, or photograph of a vlogging minor was featured 306
in a vlog multiplied by the gross earnings for that vlog in a 307
calendar year. 308

(B) A vlogger shall compensate any vlogging minor featured 309
in the vlogger's vlogs as provided in this section. 310

(C) Not later than the first day of March each year, a 311
vlogger shall set aside a portion of gross earnings collected 312
during the previous calendar year on any vlog featuring the 313
likeness, name, or photograph of a vlogging minor in a trust 314
account according to the following distribution: 315

(1) Where only one vlogging minor is featured, an amount 316
equal to or greater than the minimum contribution; 317

(2) Where more than one vlogging minor is featured, an 318
amount equal to or greater than the minimum contribution shall 319
be divided equally and deposited into separate trust accounts 320
for the vlogging minors, regardless of differences in the 321
percentage of time the vlogging minors were featured. 322

(D) (1) A vlogger shall make the contributions required by 323
division (C) of this section for a vlogging minor for each 324
calendar year that the minor qualifies as a vlogging minor. 325

(2) This section shall not be construed as requiring a 326
vlogger to make contributions for any calendar year that a minor 327
did not qualify as a vlogging minor. 328

(E) A trust account required under this section shall, at 329

<u>minimum, meet all of the following requirements:</u>	330
<u>(1) The trust shall be preserved for the benefit of the</u>	331
<u>minor and shall become available to the minor upon either of the</u>	332
<u>following:</u>	333
<u>(a) The minor reaches eighteen years of age.</u>	334
<u>(b) The minor is declared emancipated by a court of</u>	335
<u>competent jurisdiction.</u>	336
<u>(2) The funds in the account shall be available only to</u>	337
<u>the minor.</u>	338
<u>(3) The account shall be held by a bank, corporate</u>	339
<u>fiduciary, or trust company.</u>	340
<u>(4) The account shall meet the requirements of Chapter</u>	341
<u>5814. of the Revised Code.</u>	342
<u>(F) (1) If a vlogger knowingly or recklessly violates this</u>	343
<u>section, a vlogging minor may commence an action to enforce the</u>	344
<u>provisions of this section regarding the trust account.</u>	345
<u>(2) The court may award any of the following damages to a</u>	346
<u>vlogging minor who prevails in any action brought in accordance</u>	347
<u>with this section:</u>	348
<u>(a) Actual damages;</u>	349
<u>(b) Punitive damages;</u>	350
<u>(c) The costs of the action, including attorney's fees and</u>	351
<u>litigation costs.</u>	352
<u>(D) This section does not affect any other right or remedy</u>	353
<u>available under any other section of the Revised Code.</u>	354
<u>(E) Nothing in this section shall be construed to have any</u>	355

effect on a party that is neither the vlogger nor the vlogging 356
minor in question. 357

Sec. 4109.232. (A) Annually, not later than the first day 358
of March, the account holder of a payment account that received 359
vlog compensation in the preceding year shall set aside any such 360
vlog compensation that meets all of the following conditions: 361

(1) The annual statement provided by the operator of the 362
online platform that disbursed the vlog compensation indicates 363
that the funds were generated in connection with one or more 364
vlogs published by a publishing minor; 365

(2) The itemized statement indicates that the funds were 366
disbursed for the benefit of a vlogging account belonging to a 367
publishing minor; 368

(3) The vlog compensation was not generated by a vlog 369
created or published by a vlogger. 370

(B) An account holder shall compensate a publishing minor 371
using amounts set aside under division (A) of this section by 372
doing one of the following: 373

(1) Transferring the amounts to the publishing minor in 374
accordance with Chapter 5814. of the Revised Code; 375

(2) Depositing the amounts into a trust account that meets 376
the requirements described in section 4109.231 of the Revised 377
Code. 378

(C) (1) A publishing minor is entitled to the amounts 379
described in division (A) of this section if the minor controls 380
the vlogging account and electronic mail address identified in 381
the itemized statement provided by the operator of the online 382
platform with payment or transfer of the vlog compensation. 383

(2) If two or more publishing minors collectively operate a vlogging account, each of those publishing minors is entitled to an equal share of vlog compensation generated by any vlog for which that minor contributed. 384
385
386
387

(D) When a publishing minor reaches eighteen years of age, an account holder whose payment account receives vlog compensation to which a publishing minor is entitled under this section shall do all of the following: 388
389
390
391

(1) Inform the publishing minor that the account holder's payment account is receiving vlog compensation from the publishing minor's vlogs; 392
393
394

(2) Permit the publishing minor to terminate the payment account's association with the vlogging account; 395
396

(3) Inform the publishing minor that the account holder is no longer required by law to set aside earnings from the publishing minor's vlogs for that minor's benefit. 397
398
399

(F) If an account holder knowingly or recklessly violates this section, a publishing minor may commence an action to enforce the provisions of this section upon reaching eighteen years of age regarding any vlog compensation received by the account holder before that publishing minor reached eighteen years of age. 400
401
402
403
404
405

(G) A publishing minor who is aggrieved by a violation of this section may commence a cause of action to enforce this section within the six months following the date the publishing minor reaches eighteen years of age, or within six months after the date the former publishing minor discovers the violation, whichever is later. 406
407
408
409
410
411

(H) The court may award any of the following damages to a 412

publishing minor or a person who previously qualified as a 413
publishing minor who prevails in any action brought in 414
accordance with this section: 415

(1) Actual damages; 416

(2) Punitive damages; 417

(3) The costs of the action, including attorney's fees and 418
litigation costs. 419

Sec. 4109.233. (A) A person who qualified as a vlogging 420
minor during any calendar year who has reached the age of 421
eighteen or been declared emancipated by a court of competent 422
jurisdiction may request the permanent deletion of any vlog that 423
includes the likeness, name, or photograph of the person when 424
that person was a minor from any online platform that provided 425
compensation to the vlogger who published the vlog in question. 426

(B) An online platform shall take all reasonable steps to 427
comply with a request made under division (A) of this section. 428

Section 2. That existing sections 4109.01 and 4109.06 of 429
the Revised Code are hereby repealed. 430

Section 3. This act shall be known as the Kidfluencer 431
Protection Act. 432