

HOUSE BILL 2709

By Garrett

AN ACT to amend Tennessee Code Annotated, Title 4 and
Title 47, Chapter 18, relative to social media.

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

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding
the following as a new part:

47-18-5701.

As used in this part:

(1) "Account holder" means an entity or individual who has an account or
profile to use a social media company's platform;

(2) "Addiction" means use of a social media platform that:

(A) Indicates the user's substantial preoccupation or obsession
with, or substantial difficulty to cease or reduce the person's use of, the
social media platform; and

(B) Causes physical, mental, emotional, developmental, or other
harm to the user;

(3) "Department" means the department of commerce and insurance;

(4) "Educational entity" means a public or private elementary school,
secondary school, or state university, community college, or college of applied
technology;

(5) "Interactive computer service":

(A) Means an information service, as defined in 47 U.S.C. § 153,
information system, or information access software that:

- (i) Provides or enables access by multiple users to a computer server; and
 - (ii) Provides access to the internet; and
 - (B) Includes an internet service, an internet system, a website, an internet application, and an internet portal;
- (6) "Minor" means an individual who is:
- (A) Under eighteen (18) years of age; and
 - (B) Not emancipated;
- (7) "Parent" means the parent, guardian, or person who has custody of, or entity or individual who has caregiving authority over, the minor;
- (8) "Post" means content that an account holder makes available on a social media platform for other account holders and users to consume;
- (9) "Resident account holder" means an entity or individual who is an account holder and resides in, or is domiciled in, this state;
- (10) "Social media company" means an entity that is an interactive computer service and that provides a social media platform;
- (11) "Social media platform":
- (A) Means a website, online forum, or internet application that:
 - (i) Allows an entity or individual to create an account; and
 - (ii) Enables an account holder to:
 - (a) View the posts of other account holders; and
 - (b) Communicate with other account holders and users through posts, including the account holder creating the account holder's own posts, commenting on the posts of other account holders, or establishing mutual

connections through connection requests and acceptance;
and

(B) Does not include an online service, website, or application:

(i) Where the predominant or exclusive function is:

(a) Email service;

(b) Direct messaging consisting of text, photos, or videos that are sent between devices by electronic means, where the messages are:

(1) Shared between the sender and the recipient;

(2) Only visible to the sender and the recipient; and

(3) Are not posted publicly;

(c) Streaming services that:

(1) Provide only licensed media in a continuous flow to the end user from the service, website, or application; and

(2) Do not obtain a license to the media from a user or account holder by agreement to its terms of service;

(d) News, sports, entertainment, or other content that is preselected by the service provider and is not user generated, including any chat, comment, or interactive functionality that is provided incidental to, directly related to, or dependent upon the provision of the content;

(e) Online shopping, if the interaction with other users or account holders is generally limited to:

(1) The ability to upload a post and comment on reviews;

(2) The ability to display a collection of lists or goods for sale, or a wish list; and

(3) Other functions that are focused on online shopping, rather than interaction between users or account holders;

(f) Interactive gaming, virtual gaming, or an online service that allows the creation and upload of content for the purpose of interactive gaming or associated entertainment, and the communication related to that content;

(g) Photo editing that has an associated photo hosting service, if the interaction with other users or account holders is generally limited to allow a user to comment on a post or like the post;

(h) Showcasing and discovering artistic content through a professional creative network, if the online service, website, or application requires that such content be non-pornographic;

(i) Connection of users into single-purpose community groups for public safety, if:

(1) The interaction with other users or account holders is generally limited to that single purpose; and

(2) The community group has guidelines or policies against illegal content;

(j) Provision of career development opportunities or connections, including professional networking, job skills, learning certifications, and job posting and application services;

(k) Business-to-business software;

(l) Teleconferencing or videoconferencing services that allow reception and transmission of audio and video signals for real-time communication;

(m) Cloud storage services or cloud computing services, including shared document collaboration;

(n) Provision of access to or interaction with data visualization platforms or libraries;

(o) Academic or scholarly research; or

(p) Genealogical research;

(ii) Where:

(a) The majority of the content that is posted or created is posted or created by the providers of the online service, website, or application; and

(b) The ability to chat, comment, or interact with other users is directly related to the provider's content;

(iii) That is classified as an ad service that only permits the sale of goods and prohibits the solicitation of personal services; or

(iv) That is used by and under the direction of an educational entity, including:

(a) A learning management system;

(b) A student engagement program; or

(c) A subject or skill-specific program; and

(12) "User" means an entity or individual who has access to view all, or some of, the posts on a social media platform, but is not an account holder.

47-18-5702.

(a)

(1) A social media company shall verify the age of an individual who:

(A) Based on the internet protocol address being used by the individual, attempts to become an account holder in this state, at the time the individual attempts to become an account holder; or

(B) Is a resident account holder, within the timeframe required under subdivision (a)(3).

(2)

(A) If the individual is a minor, then the social media company must verify the express parental consent for the minor to become or continue as an account holder.

(B) A social media company shall prohibit a minor from becoming an account holder, or continuing as an account holder, unless the social media company has the express consent of the minor's parent to allow the minor to become or continue as an account holder.

(3) With respect to a current resident account holder whose age and parental consent, if applicable, were not verified before becoming an account holder, verification must occur within fourteen (14) days of the account holder's attempt to access an existing account. If a social media company does not verify that the individual is not a minor or the individual is a minor with parental consent, then the social media company must prevent the individual from becoming an account holder or accessing a current account, except to delete a current account, until the age verification or parental consent requirements of this subsection (a) are met.

(4) Once age and parental consent, if applicable, have been verified to confirm that an individual may become or continue as an account holder, then the social media company is not required to reverify the individual's age and parental consent, unless parental consent is revoked.

(b) A social media company shall allow a parent to revoke consent for a minor to become or continue as an account holder.

(c)

(1) A social media company shall prohibit a minor account holder from accessing the minor's social media platform account during the hours of 10:30 p.m. and 6:30 a.m., unless access is modified by the minor account holder's parent.

(2) The permitted access timeframe must be calculated using the internet protocol address being used by the minor account holder at the time of attempting access.

47-18-5703.

(a) A social media company shall provide a minor account holder's parent with means for the parent to supervise the minor's account. Such means must include options for the parent to:

(1) View privacy settings on the account;

(2) Set daily time restrictions, including modification or elimination of the time restriction described in § 47-18-5702(c);

(3) Access the minor's account outside of the time restrictions imposed pursuant to subdivision (a)(2) and § 47-18-5702(c);

(4) View all posts that the minor account holder makes on the social media platform; and

(5) View all responses and messages sent to or by the minor account holder on the social media platform.

(b) A social media company shall not permit a minor account holder to change or bypass restrictions imposed by this part or by the minor's parent under subsection (a).

47-18-5704.

(a) A social media company shall not use a practice, design, or feature on the company's social media platform that the social media company knows, or should know, causes a minor account holder to develop an addiction to the social media platform.

(b) A social media company is not subject to liability for a violation of this section if the social media company, as an affirmative defense, demonstrates that the social media company:

(1) Instituted and maintained a program of at least quarterly audits of the social media company's practices, designs, and features that have the potential to cause or contribute to the addiction of a minor user; and

(2) Corrected, within thirty (30) days of the completion of an audit described in subdivision (b)(1), any practice, design, or feature discovered by the audit to present more than a de minimus risk of violating this section.

(c) A social media company is not liable for:

(1) Content that is generated by an account holder, or uploaded to or shared on the platform by an account holder, that may be encountered by another account holder;

(2) Passively displaying content that is created entirely by a third party; or

(3) Information or content for which the social media company was not, in whole or in part, responsible for creating or developing.

47-18-5705.

The department shall promulgate rules to establish:

(1) Processes or means by which a social media company can comply with the age verification requirements of this section, including a list of acceptable forms or methods of verification, such as a valid identification card issued by a government entity;

(2) Requirements for providing confirmation of the receipt of information provided by an individual seeking to verify the individual's age to open or access an account;

(3) Processes or means to confirm that a parent has provided consent for the minor to open or access an account;

(4) Requirements for retaining, protecting, and securely disposing of information obtained by a social media company, or an agent of the social media company, as a result of the requirements of this section; and

(5) Additional rules as necessary to effectuate this part.

47-18-5706.

(a)

(1) A person may file a complaint for a violation of § 47-18-5702, § 47-18-5703, or § 47-18-5704 with the division of consumer affairs in the office of the attorney general and reporter. Whenever the attorney general and reporter believes that a social media company is engaged in, has engaged in, or is about to engage in an act or practice prohibited by § 47-18-5702, § 47-18-5703, or § 47-18-5704, based on a complaint received or other information, the attorney general and reporter shall conduct an investigation in the same manner as provided in § 47-18-106.

(2)

(A) If the attorney general and reporter determines that a social media company has violated § 47-18-5702, § 47-18-5703, or § 47-18-5704, then the attorney general and reporter shall provide the social media company with written notice:

(i) That identifies each alleged violation and provides an explanation for the basis of each alleged violation; and

(ii) Of the number of days that the social media company has to cure the violations; provided, that the attorney general and reporter must allow the social media company no less than thirty (30) days to cure the violations.

(B) The attorney general and reporter shall not bring a cause of action for a violation of § 47-18-5702, § 47-18-5703, or § 47-18-5704 if the social media company provides the attorney general and reporter with a written statement that:

(i) The social media company has cured the violations described in the notice provided; and

(ii) No further violation will occur.

(b) If a social media company fails to cure a violation for which the social company received notice, or, if after having received notice of a violation a social media company cured the violation and then subsequently commits another violation of the same provision, then the attorney general and reporter may bring an action in the same manner as provided in § 47-18-108, seeking the following remedies for a violation:

(1) An injunction;

(2) A civil penalty of up to two thousand five hundred dollars (\$2,500) per violation;

(3) Actual damages; or

(4) Punitive damages.

(c) The powers and remedies provided in this section are cumulative and supplementary to all other powers and remedies otherwise provided by law. The invocation of a power or remedy described in this section does not exclude or prohibit the use of another available remedy.

47-18-5707.

(a) An individual may bring a private cause of action against a social media company to recover damages incurred by a minor account holder for an addiction, or financial, physical, or emotional harm suffered as a result of a violation of § 47-18-5704. A private cause of action brought pursuant to this section may be brought in the jurisdiction in which the minor account holder resides.

(b) A court that finds that a minor account holder suffered damages due to an addiction, or financial, physical, or emotional harm resulting from the social media company's violation of § 47-18-5704 shall award the greater of:

(1) Two thousand five hundred dollars (\$2,500) for each incident of harm;

or

(2) Actual damages for the addiction, financial, physical, or emotional harm suffered by the minor account holder, if the court determines that the harm is a direct consequence of the social media company's violation.

(c) The court shall award reasonable attorney's fees and court costs to the party prevailing in an action brought pursuant to this section.

47-18-5708.

(a) A waiver or limitation, or a purported waiver or limitation, of the following is void as unlawful and against public policy:

(1) A protection or requirement provided under this part; and

(2) The right to cooperate with the attorney general and reporter or another law enforcement agency.

(b) A court, arbitrator, or tribunal shall not enforce or give effect to a waiver or limitation described in subsection (a), notwithstanding a contract or choice of law provision in a contract.

SECTION 2. For purposes of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect January 1, 2025, the public welfare requiring it.