

SB3510



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3510

Introduced 2/9/2024, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

New Act

Creates the Minor User of Social Media Protection Act. Provides that a social media company that has Illinois account holders shall develop a written policy, made available to the public, that complies with the procedures set forth in the Act and establish a reporting function that permits account holders to report that an Illinois account holder is a minor. Provides that a social media company that receives a report that an Illinois account holder is a minor shall verify the age of that account holder and, if a reasonable age verification reveals that the reported account holder is a minor, the social media company shall take down the reported account holder's account. Sets forth provisions concerning liability for social media companies and liability for commercial entities or third-party vendors.

LRB103 37990 SPS 68122 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Minor
5 User of Social Media Protection Act.

6 Section 5. Definitions. As used in this Act:

7 "Account holder" means an individual who creates an
8 account or a profile to use a social media platform.

9 "Account holder age report" means a report to a social
10 media company from another account holder that a specified
11 Illinois account holder is a minor.

12 "Commercial entity" means a corporation, limited liability
13 company, partnership, limited partnership, sole
14 proprietorship, or other legally recognized entity.
15 "Commercial entity" includes a third-party vendor.

16 "Credible" means the data collected for targeted
17 advertising purposes indicates, to a reasonable person, that
18 the account holder is, more likely than not, a minor under the
19 age of 13 from the user's digital footprint and data from the
20 user's conduct on the social media platform to curate
21 advertisements based on the user's demographics.

22 "Digital footprint" means the body of data or information
23 that a particular person creates through the person's actions

1 online or exists as a result of the person's online activity.

2 "Infinite scroll" means a design feature with the hallmark
3 of displaying additional content at the bottom of the user's
4 screen, such that the user is typically unable to look at a
5 single social media post.

6 "Minor" means an individual under the age of 13.

7 "Preference amplification" means using algorithms and
8 recommender systems to increase the user's engagement by
9 recommending content based on how the user interacts with the
10 social media platform.

11 "Push notifications" means the delivery of information
12 from a social media platform to a computing device without a
13 specific request from the client.

14 "Reasonable age verification" means to confirm that a
15 person seeking to access a social media platform is at least 13
16 years old.

17 "Reported account holder" means an Illinois account holder
18 who is the subject of an account holder age report.

19 "Reported presumed minor account holder" means an Illinois
20 account holder who is the subject account holder age report
21 that is determined to be credible based on the data the social
22 media company collects for targeted advertising purposes.

23 "Social media company" means a media company that designs
24 an online forum for an account holder to:

25 (1) create a public profile, establish an account, or
26 register as a user for the primary purpose of interacting

1 socially with other profiles and accounts;

2 (2) upload or create posts or content;

3 (3) view posts or content of other account holders;

4 and

5 (4) interact with other account holders or users,
6 including, without limitation, establishing mutual
7 connections through request and acceptance.

8 "Social media company" does not include:

9 (1) a media company that exclusively offers
10 subscription content to which users follow or subscribe
11 unilaterally and whose platforms' primary purpose is not
12 social interaction, unless that media company allows a
13 user to generate short video clips of dancing, voice
14 overs, or other acts of entertainment in which the primary
15 purpose is not educational or informative;

16 (2) a media company that exclusively offers
17 interacting gaming, virtual gaming, or an online service,
18 that allows the creation and uploading of content for the
19 purpose of interacting gaming, entertainment, or
20 associated entertainment, and the communication related to
21 that content;

22 (3) a company that:

23 (A) offers cloud storage services, enterprise
24 cybersecurity services, educational devices, or
25 enterprise collaboration tools for K-12 schools; and

26 (B) derives less than 25% of the company's revenue

1 from operating a social media platform, including
2 games and advertising; or

3 (4) a company that provides career development
4 opportunities, including professional networking, job
5 skills, learning certifications, and job posting and
6 application services.

7 "Social media platform" means a public or semi-public
8 Internet-based service or application that has users in
9 Illinois and on which a substantial function of the service or
10 application is to connect users in order to allow users to
11 interact socially with each other within the service or
12 application. A service or application that provides email or
13 direct messaging shall not be considered to a "social media
14 platform" on the basis of that function alone.

15 "Social media platform" does not include an online
16 service, a website, or an application if the predominant or
17 exclusive function is:

18 (1) email;

19 (2) direct messaging consisting of messages, photos,
20 or videos that are sent between devices by electronic
21 means if messages are:

22 (A) shared between the sender and the recipient or
23 recipients;

24 (B) only visible to the sender and the recipient
25 or recipients; and

26 (C) are not posted publicly;

1 (3) a streaming service that:

2 (A) provides only licensed media in a continuous
3 flow from the service, website, or application to the
4 end user; and

5 (B) does not obtain a license to the media from a
6 user or account holder by agreement of the streaming
7 service's terms of service;

8 (4) providing news, sports, entertainment, or other
9 content that is preselected by the provider and not user
10 generated, including, without limitation, if any chat,
11 comment, or interactive functionality that is provided is
12 incidental to, directly related to, or dependent upon
13 provision of the content;

14 (5) online shopping or e-commerce, if the interaction
15 with other users or account holders is generally limited
16 to:

17 (A) the ability to post and comment on reviews;

18 (B) the ability to display lists or collections of
19 goods for sale or wish lists; and

20 (C) other functions that are focused on online
21 shopping or e-commerce rather than interaction between
22 users or account holders;

23 (6) business-to-business software that is not
24 accessible to the general public;

25 (7) cloud storage;

26 (8) shared document collaboration;

1 (9) providing access to or interacting with data
2 visualization platforms, libraries, or hubs;

3 (10) permitting comments on a digital news website, if
4 the news content is posted only by the provider of the
5 digital news website;

6 (11) providing or obtaining technical support for a
7 social media company's platform, products, or services;

8 (12) academic or scholarly research; and

9 (13) other research if the majority of the content is
10 posted or created by the provider of the online service,
11 website, or application and the ability to chat, comment,
12 or interact with other users is directly related to the
13 provider's content:

14 (A) that is a classified advertising service that
15 only permits the sale of goods and prohibits the
16 solicitation of personal services; or

17 (B) that is used by and under the direction of an
18 educational entity, including, without limitation:

19 (i) a learning management system;

20 (ii) a student engagement program; and

21 (iii) a subject-specific or skill-specific
22 program.

23 "Social media platform" does not include a social media
24 platform that is controlled by a business entity that has
25 generated less than \$100,000,000 in annual gross revenue.

26 "Targeted advertising purposes" means behavior-based

1 advertising that takes into account data from a user's digital
2 footprint and data from the user's conduct on the social media
3 platform to curate advertisements based on a user's
4 demographics, including, but not limited to, who the user is,
5 what the user likes, and what the user is likely to purchase.

6 "User" means a person who has access to view all or some of
7 the posts and content on a social media platform but is not an
8 account holder.

9 Section 10. Requirements for social media companies.

10 (a) A social media company that has Illinois account
11 holders shall develop a written policy, made available to the
12 public, that complies with the procedures set forth in this
13 Act and establish a reporting function that permits account
14 holders to report that an Illinois account holder is a minor.

15 (b) A social media company that receives an account holder
16 age report that an Illinois account holder is a minor shall
17 determine whether the account holder age report is credible.
18 An account holder age report is credible when a social media
19 company has reason to believe the reported account holder is a
20 minor under the age of 13 based on the data the social media
21 company collects for targeted advertising purposes.

22 (c) If the social media company has reason to believe the
23 reported account holder is under the age of 13 based on the
24 data the social media company collects for targeted
25 advertising purposes, the social media company shall verify

1 the age of the reported presumed minor account holder in
2 accordance with Section 20.

3 (d) If the social media company does not have reason to
4 believe the reported account holder is under the age of 13
5 based on the data the social media company collects for
6 targeted advertising purposes, the social media company is not
7 required to take any additional action on the account holder
8 age report.

9 Section 15. Age verification of reported presumed minor
10 account holders.

11 (a) When a reported account holder is considered to be a
12 reported presumed minor account holder as described in
13 subsection (c) of Section 10, the social media company shall
14 verify the age of the reported presumed minor account holder
15 within 30 days after receiving the account holder age report.

16 (b) A social media company shall use a third-party vendor
17 to perform reasonable age verification. Reasonable age
18 verification methods under subsection (b) include providing:

19 (1) government-issued identification; or

20 (2) any commercially reasonable age verification
21 method.

22 (c) If, within 30 days after receiving the account
23 holder age report, a reasonable age verification reveals that
24 the reported account holder:

25 (1) is a minor, the social media company shall

1 take down the reported account holder's account; or

2 (2) is not a minor, the social media company shall
3 leave the reported account holder's social media account
4 active and open and the social media company shall not be
5 required to take any additional action on the account
6 holder age report.

7 (d) If, within 30 days after receiving the account holder
8 age report, a reasonable age verification is not conducted by
9 a third party for any reason, the social media company shall
10 restrict the following design features from the reported
11 presumed minor account holder until reasonable age
12 verification is performed:

13 (1) the ability of any other account holder to contact
14 or direct message with a presumed minor account holder;

15 (2) the ability of any other account holder to engage
16 with a presumed minor account holder, including, but not
17 limited to liking, commenting or sharing a presumed minor
18 account holder's content posted to the social media
19 platform;

20 (3) infinite scroll;

21 (4) push notifications;

22 (5) the ability for a presumed minor account holder to
23 see preference amplification on the presumed minor account
24 holder's social media content;

25 (6) the ability of the presumed minor account holder
26 to access the social media platform between the hours of

1 10 p.m. to 6 a.m.; and

2 (7) face and body image manipulation filters.

3 Section 20. Liability for social media companies.

4 (a) A social media company that knowingly violates this
5 Act is liable if the social media company fails to:

6 (1) perform a reasonable age verification for a
7 reported presumed minor account holder;

8 (2) restrict the design features from the reported
9 presumed minor account holder until reasonable age
10 verification is performed; or

11 (3) take down the account of a reported presumed minor
12 account holder if age verification reveals the reported
13 presumed minor account holder is a minor, unless parental
14 consent is provided.

15 (b) If a social media company performs a reasonable age
16 verification, the social media company shall not retain any
17 identifying information of the individual after access to the
18 social media platform has been granted.

19 (c) The Attorney General may conduct an investigation of
20 an alleged violation of this Act and initiate an enforcement
21 action against a social media company on behalf of the State to
22 assess civil penalties. Prior to asserting a cause of action,
23 the Attorney General shall provide a social media company with
24 a period of time of not less than 30 days to comply with this
25 Act

1 (d) A social media company that is found to have violated
2 this Act shall be liable for a civil penalty, to be assessed by
3 a court of competent jurisdiction, of not more than \$2,500 per
4 violation and court costs and reasonable attorney's fees as
5 ordered by the court.

6 (e) This Section does not:

7 (1) apply to a news or public interest broadcast,
8 website video, report, or event;

9 (3) apply to cloud service providers; or

10 (2) affect the rights of a news-gathering
11 organization.

12 (f) An Internet service provider, or any of its affiliates
13 or subsidiaries, or search engines, does not violate this Act
14 solely by providing access, connection to or from a website,
15 or other information or content on the Internet, or a
16 facility, system, or network that is not under that Internet
17 service provider's control, including transmission,
18 downloading, intermediate storage, access software, or other
19 service that provides access or connectivity, to the extent
20 the Internet service provider is not responsible for the
21 creation of the content or the communication on a social media
22 platform.

23 Section 25. Liability for commercial entities or
24 third-party vendors.

25 (a) A commercial entity or third-party vendor shall not

1 retain any identifying information of an individual after
2 access to the social media platform has been granted.

3 (b) The Attorney General may conduct an investigation of
4 an alleged violation of this Act and initiate an enforcement
5 action on behalf of the State to assess civil penalties. Prior
6 to asserting a cause of action, the Attorney General shall
7 provide a commercial entity or third party vendor with a
8 period of time of not less than 30 days to comply with this
9 Act.

10 (c) A commercial entity or third-party vendor that is
11 found to have knowingly retained identifying information of an
12 individual after access to the material is granted shall be
13 liable for a civil penalty, to be assessed by a court of
14 competent jurisdiction, of not more than \$2,500 per violation
15 and court costs and reasonable attorney's fees as ordered by
16 the court.