

1 ENGROSSED HOUSE
2 BILL NO. 3914

By: Caldwell (Chad), Schreiber,
Lepak, Sneed, and Newton of
the House

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4 and

5 Seifried of the Senate

6
7 [social media - legislative intent - definitions -
8 reasonable age verification - parental consent -
9 third-party vendors - social media companies -
10 reporting of violations to the Office of the
11 Attorney General - notice - period to cure
12 violations - liability for social media companies -
13 liability for commercial entities and third-party
14 vendors - noncodification - codification -
15 effective date -
16 emergency]

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19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law not to be
21 codified in the Oklahoma Statutes reads as follows:

22 In recognition of the critical role social media plays in the
23 lives of minors and its impact on their mental well-being, this
24 Legislature is committed to safeguarding the youth from accessing

1 platforms that have demonstrated adverse effects on their mental
2 health due to the addictive elements found in social media and the
3 targeting of minors through the use of algorithms by social media
4 platforms. This Legislature's intent is not to censor content found
5 on social media platforms, but rather to prevent access by persons
6 who have not yet reached an age to handle the negative aspects of
7 social media. Much like our historical commitment to curbing the
8 use of addictive substances and behaviors among minors, such as laws
9 regulating the use of intoxicants and gambling, this Legislature now
10 takes proactive measures to address the emerging challenges posed by
11 social media platforms.

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 120 of Title 25, unless there is
14 created a duplication in numbering, reads as follows:

15 A. Nothing in this act shall be construed to limit the content
16 found on social media platforms or prohibit minors from posting
17 content on other platforms, digital or otherwise, that they legally
18 have access to.

19 B. As used in this act:

20 1. "Account holder" means an individual who creates an account
21 or a profile to use a social media platform;

22 2. "Oklahoma user" means an individual who is a resident of the
23 State of Oklahoma and who accesses or attempts to access a social
24 media platform while present in this state by accessing the social

1 media platform using an Oklahoma Internet protocol address or is
2 otherwise known or believed to be in this state while using the
3 social media platform;

4 3. "Commercial entity":

5 a. means a corporation, limited liability company,
6 partnership, limited partnership, sole proprietorship,
7 or other legally recognized entity, and

8 b. includes a third-party vendor;

9 4. "Dark pattern" means a user interface designed or
10 manipulated with the substantial effect of subverting or impairing
11 user autonomy, decision making, or choice and includes, but is not
12 limited to, any practice the Federal Trade Commission refers to as a
13 dark pattern;

14 5. "Digitized identification card" means a data file available
15 on a mobile device that has connectivity to the Internet through a
16 state-approved application that allows the mobile device to download
17 the data file from the Oklahoma Department of Public Safety that
18 contains all of the data elements visible on the face and back of a
19 driver license or identification card and displays the current
20 status of the driver license or identification card, including
21 valid, expired, canceled, suspended, revoked, active, or inactive;

22 6. "Minor" means an individual under eighteen (18) years of
23 age;

24

1 7. "Personal information" means information that is linked or
2 reasonably linkable to an identified or identifiable minor,
3 including biometric information and unique identifiers to the minor;

4 8. "Reasonable age verification" means to confirm that a person
5 seeking to access a social media platform is at least eighteen (18)
6 years of age;

7 9. a. "Social media company" means an online forum, website,
8 or application that a company makes available for an
9 account holder to:

10 (1) create a public profile, establish an account, or
11 register as a user for the primary purpose of
12 interacting socially with other profiles and
13 accounts,

14 (2) upload or create posts or content, which may
15 include, but is not limited to, user-generated
16 short video clips of dancing, voiceovers, or
17 other acts of entertainment in which the primary
18 purpose is not educational or informative,

19 (3) view posts, activity, or content of other account
20 holders, and

21 (4) interact with other account holders or users
22 including, without limitation, establishing
23 mutual connections through request and
24 acceptance.

1 b. Social media company does not include a:

2 (1) media company that exclusively offers
3 subscription content in which users follow or
4 subscribe unilaterally and whose platform's
5 primary purpose is not social interaction,

6 (2) media company that exclusively offers interactive
7 gaming, virtual gaming, or an online service that
8 allows the creation and uploading of content for
9 the purpose of interactive gaming, entertainment,
10 or associated entertainment, and the
11 communication related to that content,

12 (3) an online service, website, or application where
13 the exclusive function is email or direct
14 messaging consisting of text, photographs,
15 pictures, images, or videos shared only between
16 the sender and the recipients, without displaying
17 or posting publicly or to other users not
18 specifically identified as the recipients by the
19 sender, and

20 (4) company that:

21 (a) offers cloud storage services, enterprise
22 cybersecurity services, educational devices,
23 or enterprise collaboration tools for
24

1 kindergarten through grade twelve (K-12)
2 schools, and

3 (b) derives less than twenty-five percent (25%)
4 of the company's revenue from operating a
5 social media platform, including games and
6 advertising, or

7 (5) company that provides career development
8 opportunities, including professional networking,
9 job skills, learning certifications, and job
10 posting and application services;

11 10. a. "Social media platform" means a public or semipublic
12 Internet-based service or application:

13 (1) that has users in Oklahoma,

14 (2) that employs algorithms that analyze user data or
15 information on users to select content for users,

16 (3) that features infinite scrolling, which means
17 either:

18 (a) continuously loading content or content
19 that loads as the user scrolls down the
20 page without the need to open a separate
21 page, or

22 (b) seamless content, or the use of pages with
23 no visible or apparent end or page breaks,
24 and

1 (4) which a substantial function of the service or
2 application is to connect users in order to allow
3 users to interact socially with each other within
4 the service or application.

5 b. A service or application that provides email or direct
6 messaging shall not be considered to meet the criteria
7 under division (4) of subparagraph a of this paragraph
8 on the basis of that function alone.

9 c. Social media platform does not include an online
10 service, a website, or an application if the
11 predominant or exclusive function is:

12 (1) email,

13 (2) direct messaging consisting of messages, photos,
14 or videos that are sent between devices by
15 electronic means if messages are:

16 (a) shared between the sender and the recipient
17 or recipients,

18 (b) only visible to the sender and the recipient
19 or recipients, and

20 (c) not posted publicly,

21 (3) a streaming service that:

22 (a) provides only licensed media in a continuous
23 flow from the service, website, or
24 application to the end user, and

1 (b) does not obtain a license to the media from
2 a user or account holder by agreement of the
3 streaming service's terms of service,

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

10 (5) online shopping or e-commerce, if the interaction
11 with other users or account holders is generally
12 limited to:

13 (a) the ability to post and comment on reviews,

14 (b) the ability to display lists or collections
15 of goods for sale or wish lists, and

16 (c) other functions that are focused on online
17 shopping or e-commerce rather than
18 interaction between users or account
19 holders,

20 (6) business-to-business software that is not
21 accessible to the general public,

22 (7) cloud storage,

23 (8) shared document collaboration,
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- 1 (9) providing access to or interacting with data
2 visualization platforms, libraries, or hubs,
3 (10) to permit comments on a digital news website, if
4 the news content is posted only by the provider
5 of the digital news website,
6 (11) providing or obtaining technical support for the
7 social media company's social media platform,
8 products, or services,
9 (12) academic or scholarly research,
10 (13) other research:
11 (a) if:
12 (i) the majority of the content is posted
13 or created by the provider of the
14 online service, website, or
15 application, and
16 (ii) the ability to chat, comment, or
17 interact with other users is directly
18 related to the provider's content,
19 (b) that is a classified advertising service
20 that only permits the sale of goods and
21 prohibits the solicitation of personal
22 services, or
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1 (c) that is used by and under the direction of
2 an educational entity including, without
3 limitation, a:

- 4 (i) learning management system,
- 5 (ii) student engagement program, and
- 6 (iii) subject-specific or skill-specific
7 program.

8 d. Social media platform does not include a social media
9 platform that is controlled by a business entity that
10 has generated less than One Hundred Million Dollars
11 (\$100,000,000.00) in annual gross revenue;

12 11. "Substantial harm or privacy risk to minors" means the
13 processing of personal information in a manner that may result in
14 any reasonably foreseeable substantial physical injury, economic
15 injury, or offensive intrusion into the privacy expectations of a
16 reasonable minor under the circumstances, including:

- 17 a. mental health disorders or associated behaviors,
18 including the promotion or exacerbation of self-harm,
19 suicide, eating disorders, and substance abuse
20 disorders,
- 21 b. patterns of use that indicate or encourage addictive
22 behaviors,
- 23 c. physical violence, online bullying, and harassment,
24 and

1 d. sexual exploitation, including enticement, sex
2 trafficking, and sexual abuse and trafficking of
3 online sexual abuse material; and

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

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 121 of Title 25, unless there is
9 created a duplication in numbering, reads as follows:

10 A. A social media company shall not permit an Oklahoma user who
11 is a minor under sixteen (16) years of age to be an account holder
12 on a social media company's social media platform.

13 B. A social media company shall not permit an Oklahoma user who
14 is a minor sixteen (16) years of age or older to be an account
15 holder on the social media company's social media platform unless
16 the minor has the express consent of a parent or legal guardian.

17 C. 1. A social media company shall verify the age of an
18 account holder.

19 2. If an account holder is a minor, the social media company
20 shall confirm that the minor has consent under subsection B of this
21 section to become a new account holder at the time the Oklahoma user
22 opens the account.

1 D. 1. A social media company may use a third-party vendor to
2 perform reasonable age verification before allowing access to the
3 social media company's social media platform.

4 2. Reasonable age verification methods under paragraph 1 of
5 this subsection include providing:

6 a. a digitized identification card, including a digital
7 copy of a driver license,

8 b. government-issued identification,

9 c. any commercially reasonable age verification method,
10 or

11 d. confirmation from a platform from which social media
12 applications are downloaded that the platform has
13 verified the age and identity of the user.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 122 of Title 25, unless there is
16 created a duplication in numbering, reads as follows:

17 A. A social media platform that is accessed by minors shall
18 not:

19 1. Process the personal information of any minor if the social
20 media platform has actual knowledge of or willfully disregards that
21 the processing may result in substantial harm or is a privacy risk
22 to minors;

23 2. Profile a minor unless both of the following criteria are
24 met:

1 a. the social media platform can demonstrate it has
2 appropriate safeguards in place to protect minors, and

3 b. (1) profiling is necessary to provide the online
4 service or feature requested for the aspects of
5 the online service or feature with which the
6 minor is actively and knowingly engaged, or

7 (2) the social media platform can demonstrate a
8 compelling reason that profiling does not pose
9 substantial harm or is a privacy risk to minors;

10 3. Collect, sell, share, or retain any personal information
11 that is not necessary to provide an online service or feature with
12 which a minor is actively and knowingly engaged unless the online
13 platform can demonstrate a compelling reason that collecting,
14 selling, sharing, or retaining the personal information does not
15 pose substantial harm or is a privacy risk to minors;

16 4. Use the personal information of a minor for any reason other
17 than the reason for which the personal information was collected
18 unless the online platform can demonstrate a compelling reason that
19 the use of the personal information does not pose substantial harm
20 or is a privacy risk to minors;

21 5. Collect, sell, or share any precise geolocation data of
22 minors unless the collection of the precise geolocation data is
23 strictly necessary for the online platform to provide the service,
24 product, or feature requested and then only for the limited time

1 that the collection of the precise geolocation data is necessary to
2 provide the service or feature;

3 6. Collect any precise geolocation data of a minor without
4 providing an obvious sign to the minor for the duration of the
5 collection that the precise geolocation data is being collected;

6 7. Use dark patterns to lead or encourage minors to provide
7 personal information beyond what personal information would
8 otherwise be reasonably expected to be provided for that online
9 service or feature, to forego privacy protections, or to take any
10 action that the online platform has actual knowledge of or willfully
11 disregards that may result in substantial harm or is a privacy risk
12 to minors; or

13 8. Use any personal information collected to estimate the age
14 or age range for any other purpose or retain that personal
15 information longer than necessary to estimate age. The age estimate
16 must be proportionate to the risks and data practice of an online
17 service or feature.

18 B. Violations of this section may be reported to the Office of
19 the Attorney General.

20 C. If the Attorney General determines that there has been a
21 violation of this section, the Attorney General shall send notice to
22 the social media platform.

23 D. The social media platform shall have a forty-five-day period
24 to cure the violation of this section.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 123 of Title 25, unless there is
3 created a duplication in numbering, reads as follows:

4 A. 1. A social media company that knowingly violates this act
5 is liable if the social media company fails to perform a reasonable
6 age verification or fails to comply with Section 4 of this act.

7 2. If a social media company performs a reasonable age
8 verification, the social media company shall not retain any
9 identifying information of the individual after access to the social
10 media platform has been granted.

11 B. The Attorney General may initiate an enforcement action
12 against social media companies that allegedly commit a violation of
13 this act.

14 C. A social media company that violates this act is liable to
15 an individual for:

16 1. A penalty of Two Thousand Five Hundred Dollars (\$2,500.00)
17 per violation, court costs, and reasonable attorney fees as ordered
18 by the court; or

19 2. Damages resulting from a minor accessing a social media
20 platform without the consent of his or her parent or custodian,
21 including court costs and reasonable attorney fees as ordered by the
22 court.

23 D. This section does not:
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- 1 1. Apply to a news or public interest broadcast, website video,
2 report, or event;
- 3 2. Affect the rights of a news-gathering organization; or
- 4 3. Apply to cloud service providers.

5 E. No social media platform shall be liable under this act if,
6 after performing reasonable age verification, a minor manages access
7 to the platform through means of fraud including, but not limited
8 to, the use of fake identification by the minor or an individual
9 claiming to be the parent or legal guardian of the minor.

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

20 SECTION 6. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 124 of Title 25, unless there is
22 created a duplication in numbering, reads as follows:

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1 A. A commercial entity or third-party vendor shall not retain
2 any identifying information of an individual after access to the
3 social media platform has been granted.

4 B. A commercial entity that is found to have knowingly retained
5 identifying information of an individual after access to the
6 material is granted is liable to the individual for damages
7 resulting from the retention of the identifying information,
8 including court costs and reasonable attorney fees as ordered by the
9 court.

10 SECTION 7. This act shall become effective July 1, 2024.

11 SECTION 8. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 Passed the House of Representatives the 14th day of March, 2024.

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Presiding Officer of the House
of Representatives

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20 Passed the Senate the ___ day of _____, 2024.

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Presiding Officer of the Senate

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