

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3914

By: Caldwell (Chad)

AS INTRODUCED

An Act relating to social media; defining terms; requiring reasonable age verification; requiring parental consent; establishing certain liability for social media companies; establishing certain liability for commercial entities and third-party vendors; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120 of Title 25, unless there is created a duplication in numbering, reads as follows:

As used in this act:

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

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

1 otherwise known or believed to be in this state while using the
2 social media platform;

3 3. "Commercial entity":

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

7 b. includes a third-party vendor;

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

16 5. "Minor" means an individual under eighteen (18) years of
17 age;

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

21 7. a. "Social media company" means an online forum that a
22 company makes available for an account holder to:

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

1 interacting socially with other profiles and
2 accounts,

3 (2) upload or create posts or content,

4 (3) view posts or content of other account holders,
5 and

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

9 b. Social media company does not include a:

10 (1) media company that exclusively offers
11 subscription content in which users follow or
12 subscribe unilaterally and whose platforms'
13 primary purpose is not social interaction,

14 (2) social media company that allows a user to
15 generate short video clips of dancing, voice
16 overs, or other acts of entertainment in which
17 the primary purpose is not educational or
18 informative, does not meet the exclusion under
19 division (1) of subparagraph b of paragraph 7 of
20 this section,

21 (3) media company that exclusively offers interacting
22 gaming, virtual gaming, or an online service,
23 that allows the creation and uploading of content
24 for the purpose of interacting gaming,

entertainment, or associated entertainment, and
the communication related to that content,

(4) company that:

(a) offers cloud storage services, enterprise
cybersecurity services, educational devices,
or enterprise collaboration tools for
kindergarten through grade twelve (K-12)
schools, and

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

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

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

(1) that has users in Oklahoma, and

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

1 (b) A service or application that provides email
2 or direct messaging shall not be considered
3 to meet the criteria under subdivision (a)
4 of division (2) of this subparagraph on the
5 basis of that function alone.

6 b. Social media platform does not include an online
7 service, a website, or an application if the
8 predominant or exclusive function is:

9 (1) email,

10 (2) direct messaging consisting of messages, photos,
11 or videos that are sent between devices by
12 electronic means if messages are:

13 (a) shared between the sender and the recipient
14 or recipients,

15 (b) only visible to the sender and the recipient
16 or recipients, and

17 (c) are not posted publicly,

18 (3) a streaming service that:

19 (a) provides only licensed media in a continuous
20 flow from the service, website, or
21 application to the end user, and

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

- 1 (4) news, sports, entertainment, or other content
2 that is preselected by the provider and not user-
3 generated, including without limitation if any
4 chat, comment, or interactive functionality that
5 is provided is incidental to, directly related
6 to, or dependent upon provision of the content,
- 7 (5) online shopping or e-commerce, if the interaction
8 with other users or account holders is generally
9 limited to:
- 10 (a) the ability to post and comment on reviews,
11 (b) the ability to display lists or collections
12 of goods for sale or wish lists, and
13 (c) other functions that are focused on online
14 shopping or e-commerce rather than
15 interaction between users or account
16 holders,
- 17 (6) business-to-business software that is not
18 accessible to the general public,
- 19 (7) cloud storage,
20 (8) shared document collaboration,
21 (9) providing access to or interacting with data
22 visualization platforms, libraries, or hubs,
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1 (10) to permit comments on a digital news website, if
2 the news content is posted only by the provider
3 of the digital news website,

4 (11) for the purpose of providing or obtaining
5 technical support for the social media company's
6 social media platform, products, or services,

7 (12) academic or scholarly research,

8 (13) other research:

9 (a) If:

10 (i) the majority of the content is posted
11 or created by the provider of the
12 online service, website, or
13 application, and

14 (ii) the ability to chat, comment, or
15 interact with other users is directly
16 related to the provider's content,

17 (b) that is a classified advertising service
18 that only permits the sale of goods and
19 prohibits the solicitation of personal
20 services, or

21 (c) that is used by and under the direction of
22 an educational entity, including without
23 limitation a:

24 (i) learning management system,

- (ii) student engagement program, and
- (iii) subject-specific or skill-specific program.

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 121 of Title 25, unless there is created a duplication in numbering, reads as follows:

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

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

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

2. If an account holder is a minor, the social media company shall confirm that a minor has consent under subsection B of this

1 section to become a new account holder, at the time an Oklahoma user
2 opens the account.

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

6 2. Reasonable age verification methods under paragraph 1 of
7 this subsection include providing:

- 8 a. a digitized identification card, including a digital
9 copy of a driver's license,
- 10 b. government-issued identification, or
- 11 c. any commercially reasonable age verification method.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 122 of Title 25, unless there is
14 created a duplication in numbering, reads as follows:

15 A. 1. A social media company that knowingly violates this act
16 is liable if the social media company fails to perform a reasonable
17 age verification.

18 2. If a social media company performs a reasonable age
19 verification, the social media company shall not retain any
20 identifying information of the individual after access to the social
21 media platform has been granted.

22 B. The Attorney General may initiate an enforcement action
23 against social media companies that allegedly commit a violation of
24 this act.

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

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

6 2. Damages resulting from a minor accessing a social media
7 platform without their parent's or custodian's consent, including
8 court costs and reasonable attorney fees as ordered by the court.

9 D. This section does not:

10 1. Apply to a news or public interest broadcast, website video,
11 report, or event;

12 2. Affect the rights of a news-gathering organization; or

13 3. Apply to cloud service providers.

14 E. An Internet service provider, or any of its affiliates or
15 subsidiaries, or search engines, shall not violate this act solely
16 by providing access, connection to or from a website, or other
17 information or content on the Internet, or a facility, system, or
18 network that is not under that Internet service provider's control,
19 including transmission, downloading, intermediate storage, access
20 software, or other service that provides access or connectivity, to
21 the extent the Internet service provider is not responsible for the
22 creation of the content or the communication on a social media
23 platform.
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1 SECTION 4. 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. A commercial entity or third-party vendor shall not retain
5 any identifying information of an individual after access to the
6 social media platform has been granted.

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

13 SECTION 5. This act shall become effective November 1, 2024.

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