

SB3440



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3440

Introduced 2/8/2024, by Sen. Willie Preston

SYNOPSIS AS INTRODUCED:

New Act

Creates the Parental Consent for Social Media Act. Provides that a social media company shall not permit an Illinois user who is a minor 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. Provides that a social media company shall verify the age of an account holder using a third-party vendor to perform reasonable age verification before allowing access to the social media company's social media platform. Provides that a social media company shall not permit an Illinois user who is a minor to access the social media platform between the hours of 10 p.m. through 6 a.m. Sets forth provisions concerning liability for social media companies and liability for commercial entities or third-party vendors.

LRB103 38112 SPS 68244 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
5 Parental Consent for Social Media 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 "Commercial entity" means a corporation, limited liability
10 company, partnership, limited partnership, sole
11 proprietorship, or other legally recognized entity.

12 "Commercial entity" includes a third-party vendor.

13 "Illinois user" means a resident of Illinois who accesses
14 or attempts to access a social media platform while present in
15 Illinois by accessing the social media platform using an
16 Illinois Internet protocol address or is otherwise known or
17 believed to be in Illinois while using the social media
18 platform.

19 "Minor" means an individual under 18 years of age.

20 "Reasonable age verification" means to confirm that a
21 person seeking to access a social media platform is at least 18
22 years old.

23 "Social media company" means a media company that designs

1 an online forum for an account holder to:

2 (1) create a public profile, establish an account, or
3 register as a user for the primary purpose of interacting
4 socially with other profiles and accounts;

5 (2) upload or create posts or content;

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

7 and

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

11 "Social media company" does not include:

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

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

25 (3) a company that:

26 (A) offers cloud storage services, enterprise

1 cybersecurity services, educational devices, or
2 enterprise collaboration tools for K-12 schools; and

3 (B) derives less than 25% of the company's revenue
4 from operating a social media platform, including
5 games and advertising; or

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

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

18 "Social media platform" does not include an online
19 service, a website, or an application if the predominant or
20 exclusive function is:

21 (1) email;

22 (2) direct messaging consisting of messages, photos,
23 or videos that are sent between devices by electronic
24 means if messages are:

25 (A) shared between the sender and the recipient or
26 recipients;

1 (B) only visible to the sender and the recipient
2 or recipients; and

3 (C) are not posted publicly;

4 (3) a streaming service that:

5 (A) provides only licensed media in a continuous
6 flow from the service, website, or application to the
7 end user; and

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

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

17 (5) online shopping or e-commerce, if the interaction
18 with other users or account holders is generally limited
19 to:

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

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

23 (C) other functions that are focused on online
24 shopping or e-commerce rather than interaction between
25 users or account holders;

26 (6) business-to-business software that is not

- 1 accessible to the general public;
- 2 (7) cloud storage;
- 3 (8) shared document collaboration;
- 4 (9) providing access to or interacting with data
5 visualization platforms, libraries, or hubs;
- 6 (10) permitting comments on a digital news website, if
7 the news content is posted only by the provider of the
8 digital news website;
- 9 (11) providing or obtaining technical support for a
10 social media company's platform, products, or services;
- 11 (12) academic or scholarly research; and
- 12 (13) other research if the majority of the content is
13 posted or created by the provider of the online service,
14 website, or application and the ability to chat, comment,
15 or interact with other users is directly related to the
16 provider's content:
- 17 (A) that is a classified advertising service that
18 only permits the sale of goods and prohibits the
19 solicitation of personal services; or
- 20 (B) that is used by and under the direction of an
21 educational entity, including, without limitation:
- 22 (i) a learning management system;
- 23 (ii) a student engagement program; and
- 24 (iii) a subject-specific or skill-specific
25 program.
- 26 "Social media platform" does not include a social media

1 platform that is controlled by a business entity that has
2 generated less than \$100,000,000 in annual gross revenue.

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

6 Section 10. Social media platforms; reasonable age
7 verification methods and parental consent required.

8 (a) A social media company shall not permit an Illinois
9 user who is a minor to be an account holder on the social media
10 company's social media platform unless the minor has the
11 express consent of a parent or legal guardian.

12 (b) A social media company shall verify the age of an
13 account holder. If an account holder is a minor, the social
14 media company shall confirm that a minor has consent under
15 subsection (a) to become a new account holder at the time an
16 Illinois user opens the account.

17 (c) A social media company shall use a third-party vendor
18 to perform reasonable age verification before allowing access
19 to the social media company's social media platform.
20 Reasonable age verification methods shall include providing:

- 21 (1) government-issued identification; or
22 (2) any commercially reasonable age verification
23 method.

24 Section 15. Platform accessibility for minors. A social

1 media company shall not permit an Illinois user who is a minor
2 to access the social media platform between the hours of 10
3 p.m. through 6 a.m.

4 Section 20. Liability for social media companies.

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

7 (1) perform a reasonable age verification;

8 (2) obtain parental consent for a minor user; or

9 (3) abide by the accessibility for minors provision in
10 Section 15.

11 (b) The Attorney General may conduct an investigation of
12 an alleged violation of this Act and initiate an enforcement
13 action against a social media company on behalf of the State to
14 assess civil penalties.

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

20 (d) This Section does not:

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

23 (3) apply to cloud service providers; or

24 (2) affect the rights of a news-gathering
25 organization.

1 (e) An Internet service provider, or any of its affiliates
2 or subsidiaries, or search engines, does not violate this Act
3 solely by providing access, connection to or from a website,
4 or other information or content on the Internet, or a
5 facility, system, or network that is not under that Internet
6 service provider's control, including transmission,
7 downloading, intermediate storage, access software, or other
8 service that provides access or connectivity, to the extent
9 the Internet service provider is not responsible for the
10 creation of the content or the communication on a social media
11 platform.

12 Section 25. Liability for commercial entities or
13 third-party vendors.

14 (a) A commercial entity or third-party vendor shall not
15 retain any identifying information of an individual after
16 access to the social media platform has been granted.

17 (b) The Attorney General may conduct an investigation of
18 an alleged violation of this Act and initiate an enforcement
19 action against a commercial entity or third-party vendor on
20 behalf of the State to assess civil penalties.

21 (c) A commercial entity or third-party vendor that is
22 found to have knowingly retained identifying information of an
23 individual after access to the material is granted shall be
24 liable for a civil penalty, to be assessed by a court of
25 competent jurisdiction, of not more than \$2,500 per violation

1 and court costs and reasonable attorney's fees as ordered by
2 the court.