

2024 Regular Session

HOUSE BILL NO. 577

BY REPRESENTATIVES CARVER, BAYHAM, BERAULT, BILLINGS, BUTLER, CARRIER, WILFORD CARTER, CHASSION, COX, DAVIS, DESHOTEL, DEWITT, DOMANGUE, EDMONSTON, EGAN, FIRMENT, FISHER, FREIBERG, GALLE, GLORIOSO, GREEN, HILFERTY, HUGHES, JACKSON, MIKE JOHNSON, KNOX, LAFLEUR, JACOB LANDRY, LYONS, MYERS, OWEN, SCHLEGEL, SELDERS, TAYLOR, VILLIO, WILDER, WYBLE, AND ZERINGUE AND SENATOR MCMATH

COMMERCIAL REGULATIONS: Prohibits social media companies from collecting data to use for targeted advertising to minors

1 AN ACT

2 To enact Chapter 20-A of Title 51 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 51:1761 through 1764, relative to data collection of minors; to
4 provide for definitions; to provide for legislative findings; to provide for
5 prohibitions; to provide for protection from liability under certain circumstances, to
6 provide for application stores; to provide for civil fines; to provide for enforcement;
7 to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 20-A of Title 51 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 51:1761 through 1764, is hereby enacted to read as follows:

11 CHAPTER 20-A. PROTECTION OF CHILDREN'S INTERNET DATA

12 §1761. Legislative findings

13 The legislature hereby finds and declares all of the following:

- 14 (1) Technological advances over the past ten years and the advent of social
- 15 media have opened the door to children for learning and exposure to cultures and
- 16 interests worldwide.

1 (2) Unfortunately, data shows that over that same ten-year period, American
2 teenagers, ages twelve through fifteen, who use social media over three hours each
3 day faced twice the risk of having negative mental health outcomes, including
4 depression and anxiety symptoms.

5 (3) The American Academy of Pediatrics declared a national emergency in
6 child and adolescent mental health recognizing that the use of social media can result
7 in poor mental health, poor general health outcomes, cyberbullying-related
8 depression, body image and disordered eating behaviors, poor sleep, and most
9 tragically, death.

10 (4) The main social media platforms are well aware of the damage they are
11 doing to our children, but they have largely been held unaccountable and have little
12 desire to self-regulate as their manipulative targeted advertising to children generated
13 an estimated eleven billion dollars in advertising revenue in just one year.

14 (5) The children of Louisiana deserve better, and since the federal
15 government has failed to take the necessary action to stop data sharing, selling, and
16 targeted advertising, it is incumbent upon Louisiana to protect our children and hold
17 the major social media platforms accountable.

18 §1762. Prohibitions; data collection; targeted advertising

19 A. As used in this Chapter, the following terms have the following
20 meanings:

21 (1) "Account holder" means a person who has, or opens, an account or
22 profile to use a social media company's platform and who is a resident of this state,
23 including a minor account holder.

24 (2) "Application" means a software application or electronic service that may
25 be run or directed by a user on a computer, a mobile device, or any other general
26 purpose computing device.

27 (3) "Child", unless otherwise specified, means a consumer who is under
28 sixteen years of age.

1 (4) "Covered application store" means a publicly available website, software
2 application, electronic service, or platform that distributes and facilitates the
3 download of applications from third-party developers to users of a computer, a
4 mobile device, or any other general purpose computing device. A covered
5 application store does not mean an internet service provider, or a provider of
6 telecommunication services as defined in 47 U.S.C. 153. or any other general
7 purpose computing device.

8 (5) "Developer" means any person, entity, or organization that creates, owns,
9 or controls an application that is likely to be accessed by children and is responsible
10 for the design, development, maintenance, and distribution of the application to end
11 users through an application store.

12 (6) "Minor" means an individual under circumstances where a social media
13 platform has actual knowledge that the individual is under the age of eighteen and
14 is not emancipated or married.

15 (7) "Minor account holder" means an account holder who is a minor.

16 (8) "Online service, product, or feature" does not mean any of the following:

17 (a) Internet access and broadband service.

18 (b) A telecommunications service, as defined in 47 U.S.C. 153.

19 (c) The delivery or use of a physical product.

20 (9) "Resident" means an individual who currently resides in this state.

21 (10) "Sensitive personal data" means data collected directly from an account
22 holder online that provides any of the following:

23 (a) Information that reveals any of the following about the account holder:

24 (i) Racial or ethnic origin.

25 (ii) Religious beliefs.

26 (iii) Gender.

27 (iv) Citizenship or immigration status.

28 (b) Information regarding an individual's medical history, mental or physical
29 health condition, or medical treatment or diagnosis by a healthcare professional.

1 (c) Genetic personal data or biometric data, if the processing is for the
2 purpose of identifying a specific account holder.

3 (d) Specific geolocation data.

4 (11) "Social media platform" means an internet site or application that is
5 open to the public, allows a user to create an account, and enables users to
6 communicate with other users for the primary purpose of posting information,
7 comments, messages, or images. The term does not include any of the following:

8 (a) An internet service provider.

9 (b) Electronic mail or wireless messaging service, including short message
10 service.

11 (c) An online service, application, or internet site that consists primarily of
12 news, sports, entertainment, or other information or content preselected by the
13 provider that is not user-generated and where interactive functionality is incidental
14 to, directly related to, or dependent on the provision of the content.

15 (d) Interactive gaming, virtual gaming, or an online service that allows the
16 creation and uploading of content and the communication related to that content for
17 the purpose of interactive gaming, educational entertainment, or associated
18 entertainment.

19 (e) Cloud computing services, which may include cloud storage and shared
20 document collaboration.

21 (f) Teleconferencing or videoconferencing services.

22 (g) Providing or obtaining technical support.

23 (h) Single purpose community groups for education.

24 (12)(a) "Targeted advertising" means displaying an advertisement to an
25 account holder where the advertisement is selected based on personal data obtained
26 from the account holder's activities over time and across non-affiliated websites or
27 online applications to predict the account holder's preferences or interests.

28 (b) "Targeted advertising" does not include any of the following:

1 (i) Advertising based on an account holder's activities within a controller's
2 website or online application or any affiliated website or online application.

3 (ii) Advertising based on the context of an account holder's current search
4 query or visit to a website or online application.

5 (iii) Advertising directed to an account holder in response to the account
6 holder's request for information, products, services, or feedback.

7 (iv) Processing personal data solely to measure or report on advertising
8 performance, advertising reach, or advertising frequency or the prevention of fraud
9 and abuse.

10 B.(1) Any social media platform with more than one million account holders
11 globally that is operating in this state is prohibited from displaying targeted
12 advertising at a minor account holder.

13 (2) Any social media platform with more than one million account holders
14 globally that is operating in this state is prohibited from selling sensitive personal
15 data of a minor account holder.

16 C. Nothing in this Section prohibits a social media platform from doing any
17 of the following:

18 (1) Allowing user-generated content to appear in a chronological manner for
19 a minor account holder.

20 (2) Displaying user-generated content that has been selected or followed by
21 a minor account holder.

22 (3) Providing search results to a minor account holder, if the search results
23 are in response to a specific and immediately preceding query by the account holder.

24 D. If a social media platform makes reasonable efforts to determine whether
25 an account holder is a resident, a social media platform will not be liable for data
26 processing undertaken for that purpose, or for an erroneous determination with
27 respect to residency.

28 E. If a social media platform chooses to conduct age estimation to determine
29 which users are under eighteen, the social media platform will not be liable for data

1 processing undertaken during the period in which it is estimating age, or for an
2 erroneous estimation, or for data processing in the absence of reasonable evidence
3 that the account holder is a minor.

4 §1763. Application stores

5 A. A covered application store that provides applications shall take all of the
6 following actions:

7 (1) Take commercially reasonable steps to determine or estimate age of an
8 account holder.

9 (2) Obtain parental or guardian consent prior to permitting a known child to
10 download an application distributed or made accessible via the covered company's
11 application store.

12 (3) Connect the developer of an application in the covered company's
13 application store that is downloaded by a child upon approval by a parent or guardian
14 with the approving parent or guardian for the purpose of connecting parents with the
15 features outlined in R.S. 51:1754.

16 (4) Provide developers in the covered company's application store with a
17 signal regarding both of the following:

18 (i) Whether a parent or guardian has provided consent in accordance with
19 this Subsection.

20 (ii) Whether a child is under the age of thirteen, at least thirteen years of age
21 and under sixteen years of age, or at least sixteen years of age and under eighteen
22 years of age, via a real-time application programming interface, or API, on an
23 ongoing basis to support the delivery of the features outlined in R.S. 51:1754.

24 B. Developers may rely on age signals and application store parental consent
25 provided Subsection A of this Section for the purposes of complying with R.S.
26 51:1752.

27 C. A covered company shall comply with this Chapter in a
28 nondiscriminatory manner, specifically including but not limited to:

1 (1) A covered company shall impose at least the same restrictions and
2 obligations on its own applications and application distribution as it does on those
3 from third-party applications or application distributors.

4 (2) A covered company shall not use data collected from third parties, or
5 consent mechanisms deployed for third parties, in the course of compliance with this
6 Chapter to compete against those third parties, give the covered company's services
7 preference relative to those of third parties, or to otherwise use this data or consent
8 mechanism in an anti-competitive manner.

9 §1764. Enforcement; penalties

10 A. The attorney general may bring a civil action on behalf of a minor
11 account holder against a social media platform.

12 B. A social media platform that violates the provisions of this Chapter shall
13 be subject to a civil fine of up to ten thousand dollars per violation. A civil penalty
14 imposed pursuant to this Section shall be collected by the attorney general and
15 deposited in the general fund of the state.

16 Section 2. This Act shall become effective on July 1, 2025.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 577 Reengrossed

2024 Regular Session

Carver

Abstract: Prohibits social media companies from collecting data to use for targeted advertising to minors.

Proposed law provides for legislative findings.

Proposed law defines "account holder", "application", "child", "covered application store", "developer", "minor", "minor account holder", "online service, product, or feature", resident", "sensitive personal data", "social media platform", and "targeted advertising".

Proposed law provides that any social media platform with more than one million account holders globally that is operating in this state is prohibited from using personal data and social media algorithms for targeting advertising at an account holder who is under the age of 18 and who is located in this state.

Proposed law provides that any social media platform with more than one million account holders globally that is operating in this state is prohibited from selling personal data of an account holder who is under the age of 18 and who is located in this state.

Proposed law provides that nothing in proposed law prohibits a social media platform from:

- (1) Allowing user-generated content to appear in a chronological manner for a minor account holder.
- (2) Displaying user-generated content that has been selected or followed by a minor account holder, as long as the content appears in a chronological manner.
- (3) Providing search results to a minor account holder, if the search results are in response to a specific and immediately preceding query by the account holder.

Proposed law provides what actions a covered application store shall take, which include:

- (1) Take commercially reasonable steps to determine or estimate age of an account holder.
- (2) Obtain parental or guardian consent prior to permitting a known child to download an application distributed or made accessible via the covered company's application store.
- (3) Connect the developer of an application in the covered company's application store that is downloaded by a child upon approval by a parent or guardian with the approving parent or guardian for the purpose of connecting parents with the features outlined in present law.
- (4) Provide developers in the covered company's application store with a signal regarding whether a parent or guardian has provided consent in accordance with proposed law and whether a child is under the age of 13, at least 13 years of age and under 16 years of age, or at least 16 years of age and under 18 years of age, via a real-time application programming interface, or API, on an ongoing basis to support the delivery of the features outlined in present law.

Proposed law provides that developers may rely on age signals and application store parental consent provided in proposed law for the purposes of complying with present law.

Proposed law provides that a covered company shall comply with present and proposed law in a nondiscriminatory manner, specifically including but not limited to:

- (1) A covered company shall impose at least the same restrictions and obligations on its own applications and application distribution as it does on those from third-party applications or application distributors.
- (2) A covered company shall not use data collected from third parties, or consent mechanisms deployed for third parties, in the course of compliance with present and proposed law to compete against those third parties, give the covered company's services preference relative to those of third parties, or to otherwise use this data or consent mechanism in an anti-competitive manner.

Proposed law provides that the attorney general may bring a civil action on behalf of a minor account holder against a social media platform.

Proposed law provides that a social media platform that violates the provisions of proposed law shall be subject to a civil fine of up to \$10,000 per violation. A civil penalty imposed pursuant to proposed law shall be collected by the attorney general and deposited in the state general fund.

Effective July 1, 2025.

(Adds R.S. 51:1761-1764)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.
2. Expand definitions to include "account holder", "application", "child", "covered application store", "developer", "minor", "minor account holder", "online service, product, or feature", "resident", and "sensitive personal data".
3. Change "the processing of genetic" to "genetic".
4. Conform language with updated definitions.
5. Remove biometric data from the list of sensitive personal data.
6. Add that interactive gaming, virtual gaming, and certain online services are not included in a social media platform.
7. Change certain references from "consumer" to "account holder".
8. Change "using personal data" to "displaying".
9. Add when social media companies will not be liable.
10. Add what actions a covered application store are required to take.
11. Add that developers may rely on age signals and application store parental consent.
12. Add that a covered company shall comply with present and proposed law in a nondiscriminatory manner.

The House Floor Amendments to the engrossed bill:

1. Further define the term "covered application store".
2. Add to what a social media platform does not include.
3. Add to what targeted advertising does not include.
4. Provide that a civil penalty shall be collected by the attorney general.
5. Change the effective date to July 1, 2025.