

2023 Regular Session

HOUSE BILL NO. 361

BY REPRESENTATIVES DESHOTEL AND CHARLES OWEN AND SENATOR CATHEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ADMINISTRATION: Prohibits the use of TikTok and related applications on computers and networks owned or leased by the state

1 AN ACT

2 To enact Chapter 25-A of Title 42 of the Louisiana Revised Statutes of 1950, to be

3 comprised of R.S. 42:1471 through 1473, relative to public officers and employees;

4 to provide for policies prohibiting the use of certain applications on computers,

5 devices, and networks owned or leased by the state; to provide for definitions; to

6 provide for duties of the office of technology services; to provide for approval by the

7 Joint Legislative Committee on Technology and Cybersecurity; to provide for duties

8 of certain agency heads; to provide for penalties; to provide for an effective date; and

9 to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 25-A of Title 42 of the Louisiana Revised Statutes of 1950,

12 comprised of R.S. 42:1471 through 1473, is hereby enacted to read as follows:

13 CHAPTER 25-A. PROHIBITED USE OF PUBLIC COMPUTERS AND NETWORKS

14 §1471. Definitions

15 Unless the context clearly indicates otherwise, the following words and

16 terms, when used in this Chapter, shall have the following meanings:

17 (1) "Agency" means a department, office, division, agency, commission,

18 board, committee, or other organizational unit of a governmental entity.

1 (2) "Agency head" means the chief executive or administrative officer of an
2 agency or the chairman of a board or commission.

3 (3) "Covered application" means the social networking service TikTok or
4 any successor application or service developed or provided by ByteDance Limited
5 or an entity owned by ByteDance Limited.

6 (4) "Governmental entity" means the state or any political subdivision.

7 (5) "Public servant" means anyone who is:

8 (a) An elected official or an administrative officer or official of a
9 governmental entity.

10 (b) Appointed to a post or position created by rule, law, resolution,
11 ordinance, charter, or executive order.

12 (c) Employed by an agency, officer, or official of a governmental entity.

13 §1472. Prohibited use of state computers and networks

14 A.(1) The office of technology services shall develop a policy, subject to the
15 approval of the Joint Legislative Committee on Technology and Cybersecurity, to
16 prohibit the use of any covered application from any computer, device, or network
17 owned or leased by the state.

18 (2) The office of technology services shall notify each agency of the policy
19 developed and approved pursuant to this Section.

20 B. The agency head of an agency using a computer, device, or network
21 owned or leased by the state shall ensure that the agency properly implements the
22 policy developed pursuant to this Section.

23 C. The policy developed pursuant to this Section shall not prohibit a public
24 servant from any of the following:

25 (1) Unrestricted access to a covered application for a legitimate scientific,
26 educational, or law enforcement purpose as determined and approved by the public
27 servant's agency prior to the public servant's access to the covered application.

28 (2) Unfiltered or unrestricted access to a covered application on a computer,
29 device, or network that is not owned or leased by the state, provided the public

1 servant does not use the computer, device, or network to access a covered application
 2 in the course and scope of his public service.

3 §1473. Penalties

4 An agency head who fails to properly implement the policy developed and
 5 approved pursuant to this Chapter shall be subject to a civil penalty not to exceed
 6 five hundred dollars per violation. The agency head shall be personally liable for the
 7 payment of the penalty.

8 Section 2. The office of technology services shall develop the policy provided for
 9 in this Act and submit it to the Joint Legislative Committee on Technology and
 10 Cybersecurity no later than August 23, 2023.

11 Section 3. This Act shall become effective upon signature by the governor or, if not
 12 signed by the governor, upon expiration of the time for bills to become law without signature
 13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 15 effective on the day following such approval.

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 361 Reengrossed

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Deshotel

Abstract: Makes agency heads responsible for implementing a plan created by the office of technology services and approved by the Joint Legislative Committee on Technology and Cybersecurity to prohibit the use of TikTok on all computers, devices, and networks owned or leased by the state.

Proposed law requires the office of technology services to develop a policy, subject to the approval of the Joint Legislative Committee on Technology and Cybersecurity, to prohibit the use of any covered application from computers, devices, and networks owned or leased by the state.

Proposed law defines "covered application" as the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Proposed law provides that the policy shall not prohibit a public servant from having unrestricted access to a covered application for a legitimate scientific, educational, or law enforcement purpose as determined and approved by the public servant's agency prior to the public servant's access to the covered application. Further provides that the policy shall not prohibit any public servant from having unfiltered or unrestricted access to a covered

application on a computer, device, or network that is not owned or leased by the governmental entity, so long as the public servant does not use the computer, device, or network to access a covered application in the course and scope of his public service.

Proposed law requires the agency head of an agency using a state-owned or state-leased computer, device, or network to ensure that the agency properly implements the policy. Further provides that an agency head who fails to properly implement the policy shall be subject to a civil penalty not to exceed \$500 per violation. The agency head shall be personally liable for the payment of such penalty.

Proposed law requires the office of technology services to develop the policy and submit it to the Joint Committee on Technology and Cybersecurity no later than Aug. 23, 2023.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 42:1471-1473)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Include elected officials within the scope of public servants to whom the policy will apply.
2. Change the deadline for the office of technology services to submit the policy to the joint committee from Aug. 1, 2023, to Aug. 23, 2023.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Remove the requirement that the office of technology services remove the covered applications from any computer, device, or network owned or leased by the state.
2. Change the language regarding an agency head who fails to properly implement the policy "developed" to "developed and approved".