

2023 Regular Session

SENATE BILL NO. 162

BY SENATORS MCMATH, SMITH AND STINE AND REPRESENTATIVE SCHLEGEL

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

COMMERCIAL REGULATIONS. Creates the Secure Online Child Interaction and Age Limitation Act. (8/1/23)

1 AN ACT

2 To enact Chapter 20 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised

3 of R.S. 51:1751 through 1760, relative to social media; to provide for limitations and

4 restrictions of certain accounts on a social media platform; to provide for age

5 verification of account holders; to provide for parental consent; to provide for

6 enforcement by the Department of Justice; to provide for terms, conditions,

7 definitions, and procedures; to provide relative to implementation; and to provide for

8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 20 of Title 51 of the Louisiana Revised Statutes of 1950,

11 comprised of R.S. 51:1751 through 1760, is hereby enacted to read as follows:

12 **CHAPTER 20. SECURE ONLINE CHILD INTERACTION**

13 **AND AGE LIMITATION ACT**

14 **§1751. Definitions**

15 **For the purposes of this Chapter, the following terms shall have the**

16 **following meanings unless the context clearly indicates otherwise:**

17 **(1) "Account holder" means a person who has, or opens, an account or**

1 profile to use a social media company's platform.

2 (2) "Director" means the director of the division of public protection of
3 the Louisiana Department of Justice.

4 (3) "Division" means the division of public protection of the Department
5 of Justice.

6 (4) "Educational entity" means a Louisiana public school, a charter
7 school, the Louisiana Schools for the Deaf and Visually Impaired, a private
8 school, a community college, a state college, a state university, or a nonprofit
9 private postsecondary educational institution.

10 (5) "Interactive computer service" means an information service,
11 information system, or information access software provider that provides or
12 enables computer access by multiple users to a computer server and provides
13 access to the internet. An interactive computer service includes a web service,
14 a web system, a website, a web application, or a web portal.

15 (6) "Louisiana account holder" means a person who is a resident of this
16 state and an account holder, including a Louisiana minor account holder.

17 (7) "Louisiana minor account holder" means a Louisiana account holder
18 who is a minor.

19 (8) "Louisiana resident" means an individual who currently resides in
20 this state.

21 (9) "Minor" means an individual who is under the age of sixteen and
22 who has not been emancipated or married.

23 (10) "Post" means content that an account holder makes available on a
24 social media platform for other account holders or users to view.

25 (11) "Social media company" means a person or entity that provides a
26 social media platform that has at least five million account holders worldwide
27 and is an interactive computer service.

28 (12)(a) "Social media platform" means an online forum that a social
29 media company makes available for an account holder to create a profile,

1 upload posts, view the posts, and interact with other account holders and users.

2 (b) "Social media platform" shall not include an online service, website,
3 or application where the predominant or exclusive function is any of the
4 following:

5 (i) Electronic mail.

6 (ii) Direct messaging of text, photos, or videos that are sent between
7 devices shared between a sender and a recipient by electronic means, provided
8 the messages are shared between the sender and the recipient, or visible only to
9 the sender and the recipient, and are not posted publicly.

10 (iii) A streaming service that provides only licensed media in a
11 continuous flow from the service, website, or application to the end user and
12 does not obtain a license to the media from a user or account holder by
13 agreement to its terms of service.

14 (iv) News, sports, entertainment, or other content that is preselected by
15 the provider and not user generated, and any chat, comment, or interactive
16 functionality that is provided incidental to, directly related to, or dependent
17 upon provisions of the content.

18 (v) Online shopping or electronic commerce, if the interaction with other
19 users or account holders is generally limited to the ability to upload a post and
20 comment on reviews, the ability to display lists or collections of goods for sale
21 or wish lists, and any other function that is focused on online shopping or
22 electronic commerce rather than interaction between users or account holders.

23 (vi) Interactive gaming, virtual gaming, or an online service that allows
24 the creation and uploading of content for the purpose of interactive gaming,
25 educational entertainment, or associated entertainment, and the communication
26 related to that content.

27 (vii) Photograph editing that has an associated photograph hosting
28 service, if the interaction with other users or account holders is generally
29 limited to liking or commenting.

1 (viii) A professional creative network for showcasing and discovering
2 artistic content if the content is required to be non-pornographic.

3 (ix) Single purpose community groups for public safety if the interaction
4 with other users or account holders is limited to that single purpose and the
5 community group has guidelines or policies against illegal content.

6 (x) Career development opportunities, including professional
7 networking, job skills, learning certifications, and job posting and application
8 services.

9 (xi) Business to business software.

10 (xii) A teleconferencing or videoconferencing service that allows
11 reception and transmission of audio and video signals for real time
12 communication.

13 (xiii) Cloud storage.

14 (xiv) Shared document collaboration.

15 (xv) Cloud computing services, which may include cloud storage and
16 shared document collaboration.

17 (xvi) Providing access to or interacting with data visualization platforms,
18 libraries, or hubs.

19 (xvii) To permit comments on a digital news website if the news content
20 is posted by only the provider of the digital news website.

21 (xviii) Providing or obtaining technical support for a platform, product,
22 or service.

23 (xix) Academic, scholarly, or genealogical research where the majority
24 of the content that is posted is created or posted by the provider of the online
25 service, website, or application and the ability to chat, comment, or interact
26 with other users is directly related to the provider's content that is either:

27 (aa) A classified advertising service that permits only the sale of goods
28 and prohibits the solicitation of personal services.

29 (bb) Used by and under the direction of an educational entity, including

1 a learning management system, a student engagement program, or a subject or
2 skill-specific program.

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

5 §1752. Age requirements for use of social media platform; parental consent

6 A. Beginning March 1, 2024, a social media company shall not permit a
7 Louisiana resident who is a minor to be an account holder on the social media
8 company's social media platform unless the minor has the express consent of a
9 parent or guardian.

10 B. Notwithstanding any other provision of this Chapter, a social media
11 company shall not permit a Louisiana resident who is a minor to hold or open
12 an account on a social media platform if the minor is ineligible to hold or open
13 an account under any other provision of state or federal law.

14 C.(1) Beginning March 1, 2024, a social media company shall verify the
15 age of each existing or new Louisiana account holder, and if the existing or new
16 Louisiana account holder is a minor, confirm that the minor has the express
17 consent of a parent or guardian to open a new account or to maintain an
18 existing account as follows:

19 (a) For a new account, at the time the Louisiana resident opens the
20 account.

21 (b) For a Louisiana account holder who has not provided age verification
22 pursuant to this Section, within fourteen days of the Louisiana account holder's
23 attempt to access the account.

24 (2) If a Louisiana account holder fails to meet the verification
25 requirements of this Section within fourteen days of the Louisiana account
26 holder's attempt to access the account, the social media company shall deny
27 access to the account after fourteen days and until all verification requirements
28 are met.

29 (3) The division shall adopt rules in accordance with the Administrative

1 Procedure Act that shall, at a minimum, include all of the following:

2 (a) Establish a process or means by which a social media company may
3 meet the age verification requirements of this Chapter.

4 (b) Establish acceptable forms or methods of identification, which may
5 not be limited to a valid identification card issued by a government entity.

6 (c) Establish requirements for providing confirmation of the receipt of
7 any information provided by a person seeking to verify age under this Chapter.

8 (d) Establish a process or means to confirm that a parent or guardian
9 has provided consent for the minor to open or use an account as required by
10 this Section.

11 (e) Establish requirements for retaining, protecting, and securely
12 disposing of any information obtained by a social media company or its agent
13 as a result of compliance with the requirements of this Chapter.

14 (f) Require the information obtained by a social media company or its
15 agent in order to comply with the requirements of this Chapter be retained for
16 the purpose of compliance only and shall not be used for any other purpose.

17 (g) Require that if the division permits an agent of the social media
18 company to process age verification requirements required by this Section, the
19 agent have its principal place of business in the United States of America.

20 (h) Require other applicable state agencies to comply with any rules
21 adopted in accordance with the provisions of this Chapter.

22 §1753. Prohibition on data collection for certain accounts and advertising

23 Beginning March 1, 2024:

24 (1) For a Louisiana minor account holder, a social media company shall
25 prohibit all of the following:

26 (a) Direct messaging between the account and any other user that is not
27 linked to the account through friending.

28 (b) The display of any advertising in the account.

29 (c) The collection or use of personal information from the posts, content,

1 messages, text, or usage activities of the account other than information that is
2 necessary to comply with, and to verify compliance with, any state or federal
3 law, which information includes a parent or guardian's name, a birth date, and
4 any other information required to be submitted pursuant to this Chapter.

5 (d) Prohibit the use of targeted or suggested groups, services, products,
6 posts, accounts, or users in the account.

7 (2) For a Louisiana minor account holder, a social media company shall
8 not show the account in search results for any user that is not linked to the
9 account through friending.

10 §1754. Parental access to social media account

11 Beginning March 1, 2024, a social media company shall provide a parent
12 or guardian who has given parental consent for a Louisiana minor account
13 holder as provided in this Chapter with a password or other means for the
14 parent or guardian to access the account, which shall allow the parent or
15 guardian to view all posts, responses, and messages made by or sent to the
16 Louisiana minor account holder in the social media platform account.

17 §1755. Limitation of access for minors; parental controls

18 A. Beginning March 1, 2024, a social media company shall prohibit a
19 Louisiana minor account holder from having access to his account during the
20 hours of 10:30 p.m. to 6:30 a.m., unless the access is modified pursuant to the
21 provisions of this Section.

22 B. The time of day under this Section shall be calculated based on the
23 internet protocol address being used by the Louisiana minor account holder at
24 the time of attempting access.

25 C. A social media company shall provide options for a parent or
26 guardian with access to an account to do both of the following:

27 (1) Change or eliminate the time of day restriction described in
28 Subsection A of this Section.

29 (2) Set a limit on the number of hours per day that a Louisiana minor

1 account holder may use the account.

2 D. A social media company shall not permit a Louisiana minor account
3 holder to change or bypass restrictions on access as required by this Section.

4 E. Notwithstanding any provision of this Section to the contrary, a social
5 media company shall permit a parent or guardian to access the account of a
6 Louisiana minor account holder without time restrictions.

7 §1756. Investigative powers of the division

8 A. The division shall receive consumer complaints alleging any violation
9 of this Chapter, and any person may file a consumer complaint with the division
10 that alleges a violation of this Chapter.

11 B. The division shall investigate a consumer complaint to determine
12 whether a violation of this Chapter occurred.

13 §1757. Enforcement powers of the division

14 A. Except for any private right of action brought pursuant to R.S.
15 51:1759, the division has exclusive authority to administer and enforce the
16 requirements of this Chapter.

17 B. Subject to the ability to cure an alleged violation under Subsection
18 (E)(1) of this Section, the division director may impose an administrative fine
19 of up to two thousand five hundred dollars for each violation of this Chapter,
20 and the division may bring an action in a court of competent jurisdiction to
21 enforce any provision of this Chapter.

22 C. In a court action by the division to enforce any provision of this
23 Chapter, the court may do any of the following:

24 (1) Declare that the act or practice violates a provision of this Chapter.

25 (2) Issue an injunction for a violation of this Chapter.

26 (3) Order any profits, gains, gross receipts, or benefit from a violation
27 under this Chapter to be forfeited and paid to the aggrieved person.

28 (4) Impose a civil penalty of up to two thousand five hundred dollars for
29 each violation of this Chapter.

1 **(5) Award damages to the aggrieved person.**

2 **(6) Award any other relief that the court considers reasonable and**
3 **necessary.**

4 **D.(1) At least thirty days before the day on which the division initiates**
5 **an enforcement action against a person that is subject to the requirements of**
6 **this Chapter, the division shall provide the person with a written notice that**
7 **identifies each alleged violation and an explanation of the basis for each**
8 **allegation.**

9 **(2) Except as provided under Paragraph (3) of this Subsection, the**
10 **division shall not initiate an action if the person cures the noticed violation**
11 **within thirty days after the date on which the person receives the notice by**
12 **providing the division with a written statement indicating the violation is cured**
13 **and no further violations will occur.**

14 **(3) The division may initiate a civil action against a person that does**
15 **either of the following:**

16 **(a) Fails to cure a violation after receiving the written notice described**
17 **in Paragraph (1) of this Subsection.**

18 **(b) Commits another violation of the same provision after curing a**
19 **violation and providing a written statement in accordance with Paragraph (2)**
20 **of this Subsection.**

21 **(4) If a court of competent jurisdiction grants judgment or injunctive**
22 **relief to the division, the court shall award the division all of the following:**

23 **(a) Reasonable attorney fees.**

24 **(b) Court costs.**

25 **(c) Investigative cost.**

26 **(5) A person who violates an administrative order or court order issued**
27 **for a violation of this Chapter shall be subject to a civil penalty of not more than**
28 **five thousand dollars for each violation. A civil penalty under this Section may**
29 **be imposed in any civil action brought by the division.**

1 (6) All monies received from the payment of a fine or civil penalty
2 imposed and collected pursuant to the provisions of this Section shall be used
3 by the division to promote consumer protection and education.

4 §1758. Annual report

5 A. The division shall compile an annual report that contains all of the
6 following information:

7 (1) An evaluation of the liability and enforcement provisions of this
8 Chapter, including but not limited to the effectiveness of the division's efforts
9 to enforce this Chapter and any recommendations for revisions to this Chapter,
10 including proposals for legislation.

11 (2) A summary of the consumer interactions, protected and not protected
12 by this Chapter, including a list of alleged violations the division has received.

13 (3) An accounting of all of the following:

14 (a) All administrative fines and civil penalties assessed during the year.

15 (b) All administrative fines and civil penalties collected during the year.

16 (c) The use of funds from all administration fines and civil penalties
17 collected during the year.

18 B. The division may update or correct the report as new information
19 becomes available.

20 C. The division shall maintain the report, which shall be published on its
21 website.

22 §1759. Waiver; prohibited

23 Notwithstanding any contract or choice of law provision in a contract,
24 a waiver or limitation, or purported waiver or limitation, of any of the following
25 shall be void and unenforceable as contrary to public policy, and a court or
26 arbitrator shall not enforce or give effect to the waiver:

27 (1) A protection or requirement pursuant to this Chapter.

28 (2) The right to cooperate with the division or to file a complaint with the
29 division.

1 **(3) The right to a private right of action as provided under this Chapter.**

2 **§1760. Subject to appropriation**

3 **The implementation of this Chapter shall be subject to the appropriation**

4 **of funds by the legislature for this purpose.**

The original instrument was prepared by Xavier Alexander. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tracy Sabina Sudduth.

DIGEST

SB 162 Reengrossed

2023 Regular Session

McMath

Proposed law creates the Secure Online Child Interaction and Age Limitation Act.

Proposed law defines certain terms including, "social media company", "social media platform", "Louisiana account holder", and "Louisiana minor account holder".

Proposed law provides that beginning March 1, 2024, a social media company shall not allow a minor in this state to hold a social media account unless the minor has consent from a parent or guardian.

Proposed law provides that the social media company shall verify the age of any existing or new account holder on its social media platform and further provides that any account holder who has not verified their age within 14 days of an attempt to access the account shall result in the denial of access to the account until all verification requirements are met.

Proposed law requires the division of public protection within the Dept. of Justice to adopt rules to implement the provisions of proposed law, which shall include rules to establish a process to verify age and confirm parental consent, to provide for the protection of age verification information, and to provide that the social media company have a principal place of business in the United States in order to process age verification.

Proposed law provides if the account holder is a minor, the social media company shall restrict access to certain features, including but not limited to direct messaging with certain users, the display of advertisements, and the use of targeted or suggested groups, services, or users.

Proposed law provides that a minor shall not access the account between 10:30 p.m. and 6:30 a.m., based on the internet protocol address being used by the minor account holder at the time of attempting access, without the ability to bypass this restriction.

Proposed law provides that a parent or guardian shall have access to the minor's account, and provide that at any time a parent or guardian can change or eliminate the time and day restrictions set by proposed law and set a limit on the number of hours social media is used per day by the minors.

Proposed law provides that the division shall have the authority to receive and investigate consumer complaints that allege violations of proposed law.

Proposed law provides that the division shall have exclusive authority to administer and enforce the requirements of proposed law. Provides that the division may impose an administrative fine of up to \$2,500 for each violation of proposed law.

Proposed law provides that in a court action by the division to enforce proposed law, the

court may do any of the following:

- (1) Declare that the act or practice violates a provision of proposed law.
- (2) Issue an injunction for a violation of proposed law.
- (3) Order any profits, gains, gross receipts or benefit from a violation of proposed law to be forfeited and paid to the aggrieved person.
- (4) Impose a civil penalty of up to \$2,500 for each violation of proposed law.
- (5) Award damages to the aggrieved person or other relief considered reasonable and necessary by the court.

Proposed law provides that if a court grants a judgment or injunctive relief in favor of the division, the court shall award the division reasonable attorney fees, court costs, and investigative costs.

Proposed law provides that the division shall provide a person with an alleged violation of proposed law with a written explanation of the basis of the allegations 30 days prior to the division initiating an action against a person. Provides that the division shall not initiate an action if the person cures the alleged violation within 30 days of receiving notice from the division in accordance with proposed law.

Proposed law provides that the division may initiate a civil action against a person that does either of the following:

- (1) Fails to cure a violation after receiving the written notice of an alleged violation.
- (2) Commits another violation of the same provision after curing a violation.

Proposed law provides that a person who violates an administrative or court order issued for a violation of proposed law is subject to a civil penalty of not more than \$5,000 for each violation. Provides that all civil penalties received shall be used by the division to promote consumer protection and education.

Proposed law requires the division to compile an annual report that evaluates the liability and enforcement of proposed law, summarizes the consumer interactions that are protected and not protected by proposed law, and maintains an account of all fines and civil penalties collected during the year.

Proposed law prohibits waiver of certain protections, requirements, and private rights.

Proposed law provides that the implementation of this Act shall be subject to the appropriation of funds by the legislature.

Effective August 1, 2023.

(Adds R.S. 51:1751-1760)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Make technical changes.

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Deletes the provision that a person may bring a direct action against another person that does not comply with proposed law.
2. Requires that this Act be subject to the appropriation of funds by the legislature.