

DIGEST

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DIGEST

SB 162 Re-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 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 make commercially reasonable efforts to verify the age of account holders. A social media company is prohibited from permitting a La. resident who is a minor to be an account holder unless the minor has the express consent of a parent or guardian. Proposed law provides acceptable methods of obtaining a parent or guardian's express consent.

Proposed law authorizes the division of public protection within the Dept. of Justice to adopt rules to implement the provisions of proposed law.

Proposed law provides prohibited actions for social media companies.

Proposed law requires a social media company to provide a parent or guardian with means to initiate account supervision. Such supervision shall include the ability for the parent to view privacy settings of the minor's account, set daily time limits for the service, schedule breaks, and offer the minor the option to set up parental notifications when the minor reports a person or issue.

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 45 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 45 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 and requirements.

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

Proposed law provides that proposed law is given prospective application only.

Effective July 1, 2024.

(Adds R.S. 51:1751-1759)

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.

Senate Floor Amendments to reengrossed bill

1. Excludes internet access and broadband service from the definition of social media platform.
2. Make technical changes.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the re-engrossed bill:

1. Amend the definition of the terms "minor" and "social media platform".
2. Amend the exceptions to the term "social media platform".
3. Amend to permit a social media company to make commercially reasonable efforts to verify an account holder's age.
4. Prohibit a social media company from allowing a Louisiana resident who is a minor to hold or open an account on a social media platform if the minor is otherwise ineligible pursuant to state or federal law.
5. Allows the division of public protection to promulgate rules for the purposes of proposed law.
6. Clarify prohibited activities of social media companies.
7. Delete the use of targeted or suggested groups, services, products, posts, accounts, or users from the list of prohibitions.
8. Delete proposed law prohibiting the waiver or limitation of the right to a private right of action.
9. Add an effective date of July 1, 2024.
10. Provide that proposed law shall be given prospective application only.
11. Make technical changes.