

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 SENATORS ABRAHAM, BOUIE, CATHEY, CLOUD, CONNICK, DUPLESSIS, EDMONDS, HENRY, HODGES, JACKSON-ANDREWS, JENKINS, MCMATH, MIGUEZ, MIZELL, PRICE, STINE, AND WHEAT

1 AN ACT

2 To amend and reenact Section 3 of Act No. 456 of the 2023 Regular Session and to enact
3 Chapter 20-A of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised
4 of R.S. 51:1761 through 1763, relative to data collection of minors; to provide for
5 definitions; to provide for legislative findings; to provide for prohibitions; to provide
6 for protection from liability under certain circumstances; to provide for civil fines;
7 to provide for enforcement; to provide for an effective date; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Section 3 of Act No. 456 of the 2023 Regular Session is hereby amended
11 and reenacted to read as follows:

12 Section 3. This Act shall become effective on July 1, ~~2024~~ 2025.

13 Section 2. Chapter 20-A of Title 51 of the Louisiana Revised Statutes of 1950,
14 comprised of R.S. 51:1761 through 1763, is hereby enacted to read as follows:

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

16 §1761. Legislative findings

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

18 (1) Technological advances over the past ten years and the advent of social
19 media have opened the door to children for learning and exposure to cultures and
20 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) "Minor" means an individual under circumstances where a social media
2 platform has actual knowledge that the individual is under the age of eighteen and
3 is not emancipated or married.

4 (5) "Minor account holder" means an account holder who is a minor.

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

6 (a) Internet access and broadband service.

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

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

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

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

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

13 (i) Racial or ethnic origin.

14 (ii) Religious beliefs.

15 (iii) Gender.

16 (iv) Citizenship or immigration status.

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

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

21 (d) Specific geolocation data.

22 (9) "Social media platform" has the same meaning as provided for in R.S.
23 51:1751.

24 (10)(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:

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

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

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

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

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

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

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

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

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

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

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

26 E. If a social media platform chooses to conduct age estimation to determine
 27 which users are under eighteen, the social media platform will not be liable for data
 28 processing undertaken during the period in which it is estimating age, or for an
 29 erroneous estimation, or for data processing in the absence of reasonable evidence
 30 that the account holder is a minor.

1 §1763. Enforcement; penalties

2 A. The attorney general may bring a civil action to enforce any violations of
3 this Chapter.

4 B. A social media platform that violates the provisions of this Chapter shall
5 be subject to a civil fine of up to ten thousand dollars per violation.

6 C.(1) At least forty-five days before the day on which the attorney general
7 initiates an enforcement action against a person who is subject to the requirements
8 of this Chapter, the attorney general shall provide the person with a written notice
9 that identifies each alleged violation and an explanation of the basis for each
10 allegation.

11 (2) Except as provided in Paragraph (3) of this Subsection, the attorney
12 general shall not initiate an action if the person cures the notice violation within
13 forty-five days after the date on which the person receives the notice by providing
14 the attorney general with a written statement indicating that the violation is cured and
15 no further violations will occur.

16 (3) The attorney general may initiate a civil action against a person who does
17 either of the following:

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

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

23 (4) If a court of competent jurisdiction grants judgment or injunctive relief
24 to the attorney general, the court shall award the attorney general reasonable attorney
25 fees, court costs, and investigative costs.

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

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

4 Section 3. This Act shall become effective on July 1, 2025.

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 PRESIDENT OF THE SENATE

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____