

# ASSEMBLY, No. 5069

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 19, 2023

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**Assemblyman STERLEY S. STANLEY**

**District 18 (Middlesex)**

**Co-Sponsored by:**

**Assemblyman Tully**

**SYNOPSIS**

Prohibits social media platforms from using certain practices or features that cause child users to become addicted to platform.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/23/2023)**

1 AN ACT prohibiting the use of certain addictive practices or features  
2 by social media platforms and supplementing Title 56 of the  
3 Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. As used in P.L. , c. (C. ) (pending before the  
9 Legislature as this bill):

10 “Addict” means to knowingly, recklessly, or negligently cause  
11 addiction through any act or omission or any combination of acts or  
12 omissions.

13 “Addiction” means the use of one or more social media  
14 platforms, the use of which:

15 a. indicates preoccupation or obsession with, or withdrawal or  
16 difficulty to cease or reduce the use of, a social media platform  
17 despite the child user’s desire to cease or reduce such use; and

18 b. causes physical, mental, emotional, developmental, or  
19 material harm to the child user.

20 “Child user” means a person who is younger than 18 years of age  
21 and uses one or more social media platforms.

22 “Content” means any statements, materials, documents,  
23 photographs, graphics, or other information that is created, posted,  
24 shared, or otherwise transmitted on a social media platform, except  
25 that “content” does not include any information that is posted online  
26 exclusively for the purpose of cloud storage, transmitting  
27 documents, or file collaboration.

28 “Public or semi-public internet-based service or application”  
29 excludes any internet-based service or application that is used to  
30 facilitate communication within a business or enterprise among  
31 employees or affiliates of the business or enterprise, provided that  
32 access to the service or application is restricted to employees or  
33 affiliates of the business or enterprise using the service or  
34 application.

35 “Social media platform” or “platform” means a public or semi-  
36 public internet-based service or application that has users in this  
37 State, which service or application:

38 a. allows users to construct a public or semipublic profile for  
39 the purposes of using the platform, populate a list of other users  
40 with whom the user shares a social connection through the platform,  
41 and post content viewable by other users of the platform; and

42 b. is designed to connect users within the platform to facilitate  
43 social interactions, except that a service or application that provides  
44 email or direct messaging services shall not be considered to meet  
45 this criterion solely based on the existence of that functionality.

46  
47 2. a. Except as otherwise provided in this section, a social  
48 media platform shall not use any practice, design, feature, or

1 affordance that the platform knew, or which by the exercise of  
2 reasonable care should have known, would cause child users to  
3 become addicted to the platform.

4 b. A social media platform shall not be deemed to violate the  
5 provisions of subsection a. of this section if:

6 (1) the social media platform demonstrates that the platform:

7 (a) instituted and maintained an audit program in which the  
8 platform: (i) conducts quarterly audits of its practices, designs,  
9 features, and affordances to determine whether these practices,  
10 designs, features, or affordances cause, have the potential to cause,  
11 or contribute to the addiction of child users to the platform; and (ii)  
12 hires an independent third party to conduct an annual audit of its  
13 practices, designs, features, or affordances to determine whether  
14 these practices, designs, features, or affordances cause, have the  
15 potential to cause, or contribute to the addition of child users to the  
16 platform; and

17 (b) if an audit determines that any practice, design, feature, or  
18 affordance used by the platform causes, has the potential to cause,  
19 or contributes to the addiction of child users, the platform has  
20 corrected the practice, design, feature, or affordance within 30  
21 calendar days of the completion of the audit;

22 (2) the social media platform is controlled by a business entity  
23 that generated less than \$100 million in gross revenue during the  
24 preceding calendar year; or

25 (3) the primary function of the social media platform is to  
26 enable users to play video games.

27 c. Nothing in this section shall be construed to impose liability  
28 on a social media platform for:

29 (1) any content that is generated, uploaded, or shared on the  
30 social media platform by a user of the platform;

31 (2) any content that is created solely by a third party and  
32 passively displayed by the social media platform;

33 (3) any information or content for which the social media  
34 platform was not, in whole or in part, responsible for creating or  
35 developing; and

36 (4) any conduct involving child users that would otherwise be  
37 protected by 47 U.S.C. s.230, the First Amendment of the United  
38 States Constitution, or Article I, paragraph 6 of the State  
39 Constitution.

40 d. A social media platform that violates the provisions of  
41 subsection a. of this section shall be liable for a civil penalty, not to  
42 exceed \$250,000 per violation, to be collected in a civil action by a  
43 summary proceeding under the "Penalty Enforcement Law of  
44 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court  
45 and the municipal court shall have jurisdiction to enforce the  
46 provisions of the "Penalty Enforcement Law of 1999" pursuant to  
47 this subsection.

1       3. This act shall take effect on the first day of the third month  
2 following the date of enactment.

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STATEMENT

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7       This bill prohibits a social media platform from using any  
8 practice, design, feature, or affordance that would cause child users  
9 to become addicted to the platform. Under the bill, a social media  
10 platform would be liable for a civil penalty not to exceed \$250,000  
11 for each violation.

12       However, if a social media platform implements an audit  
13 program and corrects certain addictive practices, the platform would  
14 not be deemed to violate the provisions of the bill. Specifically, the  
15 social media platform would be required to conduct quarterly  
16 audits, and hire an independent third party to conduct an annual  
17 audit, to determine whether any of its practices, designs, features, or  
18 affordances would cause, have the potential to cause, or contribute  
19 to the addiction of child users to the platform. If so, the social  
20 media platform would also be required to correct the practice,  
21 design, feature, or affordance within 30 calendar days of the  
22 completion of the audit.

23       Additionally, certain social media platforms would not be subject  
24 to the requirements of the bill. These social media platforms would  
25 include any platform that is controlled by a business entity that  
26 generated less than \$100 million in gross revenue during the  
27 preceding calendar year, or any platform whose primary function is  
28 to enable users to play video games.

29       The bill also clarifies that social media platforms would not be  
30 subject to liability under this bill for: (1) any content generated,  
31 uploaded, or shared by users of the platform; (2) any content that is  
32 created by third-party entities and passively displayed by the  
33 platform; (3) any information or content for which the platform was  
34 not responsible for creating and developing; and (4) any conduct  
35 involving child users that would otherwise be protected under  
36 certain federal law, the First Amendment of the United States  
37 Constitution, or Article I, paragraph 6 of the State Constitution.