

[Second Reprint]

ASSEMBLY, No. 5750

STATE OF NEW JERSEY
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INTRODUCED NOVEMBER 30, 2023

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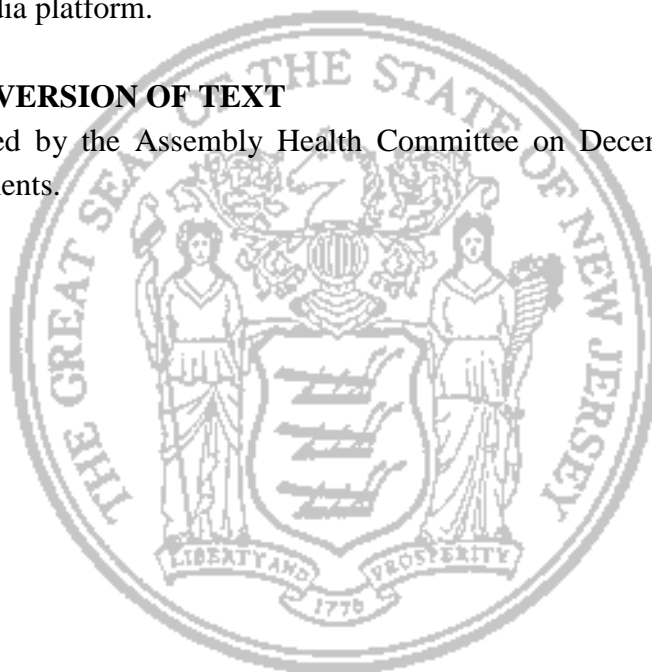
Assemblywoman Speight

SYNOPSIS

Requires age verification and parent or guardian consent for minor's use of social media platform; prohibits certain messaging between adults and minors on social media platform.

CURRENT VERSION OF TEXT

As reported by the Assembly Health Committee on December 18, 2023, with amendments.



(Sponsorship Updated As Of: 12/18/2023)

1 AN ACT requiring age verification and parent or guardian consent
2 for a minor’s use of a social media platform and supplementing
3 Title 52 of the 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 “Account holder” means an individual who has or who creates an
11 account or profile on a social media platform.

12 “Adding” means a distinction from other users concerning the
13 interaction of two separate social media accounts, at the mutual
14 election of the account holders, by which the two account holders’
15 settings enable them to view one another’s posts. The term may also
16 include any designation that enables direct messaging between the two
17 accounts when such accounts do not permit such messaging with other
18 users generally. “Adding” includes, but is not limited to, friending,
19 following, or similar actions.

20 ²“Alternate form of identification” means an official identification
21 document, other than a government-issued photo identification card,
22 that would serve as proof of identity for a parent or guardian providing
23 consent pursuant to this act. “Alternate form of identification” shall
24 include the following: automobile insurance card, automobile
25 registration card, bank statement issued in the last 90 days, court
26 correspondence, court order, letters sent in one’s name from a
27 government agency, marriage license, naturalization papers,
28 notification of unemployment, public assistance identification, rent or
29 mortgage documents, resident card, post-secondary school or work
30 identification, tax return or a Form W-2 from a recent or previous year,
31 United States or foreign passport, and utility bills issued in the last 90
32 days.²

33 “Director” means the Director of the Division of Consumer Affairs
34 in the Department of Law and Public Safety.

35 “Division” means the Division of Consumer Affairs established
36 within the Department of Law and Public Safety pursuant to P.L.1971,
37 c.134 (C.52:17B-118 et seq.).

38 “Educational entity” means a school district, charter school,
39 renaissance school, non-public school, or institution of higher
40 education.

41 “Individual” means a natural person.

42 “Minor” means an individual who is under the age of 18.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHE committee amendments adopted December 11, 2023.

²Assembly AHE committee amendments adopted December 18, 2023.

1 “New Jersey account holder” means an individual who is a New
2 Jersey resident and an account holder. “New Jersey account holder”
3 includes a “New Jersey minor account holder.”

4 “New Jersey minor account holder” means a New Jersey account
5 holder who is a minor.

6 “Person” means any individual, business, or other legal entity and
7 its agents, assignees, or representatives.

8 “Post” means content that an account holder makes available on a
9 social media platform for other account holders or users to view.

10 “Social media company” means a person that provides or operates
11 a social media platform with at least five million account holders
12 worldwide.

13 “Social media platform” or “platform” means a public or
14 semipublic internet-based service or application that has users in this
15 State, which service or application: a. allows users to construct a
16 public or semipublic profile for the purposes of using the platform,
17 populate a list of other users with whom the user shares a social
18 connection through the platform, and post content viewable by other
19 users of the platform; and b. is designed to connect users within the
20 platform to facilitate social interactions, except that a service or
21 application that provides email or direct messaging services shall not
22 be considered to meet this criterion solely based on the existence of
23 that functionality. ¹²~~12~~**[Social]** “Social² media platform” shall not
24 include an Internet-based service or application for which interactions
25 between users are solely related to the provision of direct messages,
26 commercial and financial transactions, peer-to-peer payments,
27 consumer engagement around products, product reviews, sellers,
28 services, events, or places, or any combination thereof.¹

29 “User” means a person with access to view all or some of the posts
30 on a social media platform, which person is not an account holder.

31
32 2. a. A social media company shall not permit a New Jersey
33 resident who is a minor to be an account holder on the social media
34 company’s social media platform unless the minor has obtained the
35 express consent of a parent or guardian.

36 b. To provide express consent pursuant to subsection a. of this
37 section, the parent or guardian of a minor shall provide the parent or
38 guardian’s government-issued identification ²~~2~~**[and credit card**
39 **information]** or alternate form of identification² to the social media
40 company ²~~2~~**[and consent to a fee of not more than 35 cents to be**
41 **charged to the credit card provided]**².

42 c. Notwithstanding any provision of P.L. , c. (C.)
43 (pending before the Legislature as this bill), a social media company
44 shall not permit a New Jersey resident who is a minor to hold or open
45 an account on a social media platform if the minor is ineligible to hold
46 or open an account pursuant to any other provision of State or federal
47 law.

1 ²d. A social media company shall use an independent third-party
2 to verify the validity of government-issued identification or an
3 alternate form of identification, and implement privacy protocols to
4 ensure that information from the government-issued identification or
5 alternate form of identification is not stored by the social media
6 company following the completion of the verification process. An
7 individual's identity verification shall consist of a review of the
8 individual's government-issued identification or alternate form of
9 identification. A third-party that performs identity verification shall
10 not retain any identifying information of the individual who is being
11 verified following the completion of the third-party's verification
12 process.

13 e. An individual's identity verification process shall also consist of
14 any one of the following methods to obtain and verify parental
15 consent:

16 (1) requiring a parent or guardian to connect to trained personnel
17 via video-conference to provide live visual verification of government-
18 issued identification or alternate form of identification provided by the
19 individual providing consent;

20 (2) verifying a parent or guardian's identity by checking a form of
21 government-issued identification or alternate form of identification
22 against appropriate databases, with the parent's or guardian's
23 identification deleted by the third-party's records promptly after
24 verification is complete;

25 (3) provided that a third-party does not inappropriately disclose the
26 personal information of children, a third-party may use an email
27 coupled with additional steps to provide assurances that the person
28 providing the consent is the parent or guardian. Such additional steps
29 shall include: sending a confirmatory email to the parent or guardian
30 following receipt of consent, or obtaining a postal address or telephone
31 number from the parent or guardian and confirming the parent's or
32 guardian's consent by letter or telephone call. A third-party that uses
33 the method in this paragraph shall provide notice that the parent or
34 guardian may revoke any consent given in response to an earlier email;
35 or

36 (4) digital identification of the parent or guardian as obtained by an
37 online identity network company that permits individuals to provide
38 proof of legal identity online.²

39

40 3. a. A social media company shall verify the age of an
41 existing or new New Jersey account holder and, if the existing or new
42 account holder is a minor, confirm that a minor has obtained expressed
43 consent from the parent or guardian of the minor pursuant to
44 subsection a. of section 2 of P.L. , c. (C.) (pending before the
45 Legislature as this bill):

46 (1) for a new account, at the time the New Jersey resident opens
47 the account; or

1 (2) for a New Jersey account holder who has not provided age
2 verification as required pursuant to this section, within 14 calendar
3 days of the New Jersey account holder's attempt to access the account.

4 b. If a New Jersey account holder fails to meet the age
5 verification requirements of this section within the required time
6 period, the social media company shall deny access to the account:

7 (1) upon the expiration of the time period; and

8 (2) until all verification requirements are met.

9 ²c. A social media company shall use an independent third-party
10 to verify the age of a new or an existing New Jersey account holder,
11 and implement privacy protocols to ensure that information used to
12 identify age is not stored by the social media company following the
13 completion of the verification process. A third-party that performs age
14 verification shall not retain any identifying information of the
15 individual who is being verified following the completion of the third-
16 party's verification process.

17 d. Acceptable forms or methods of age identification shall include:

18 (1) validating and verifying mobile telephone subscriber
19 information;

20 (2) using dynamic knowledge-based authentication consistent with
21 the method approved by the Federal Trade Commission in accordance
22 with 16 CFR 312.12(a);

23 (3) estimating a current account holder's age based on the date the
24 account holder created the account;

25 (4) checking the last four digits of a current or prospective account
26 holder's social security number against a third-party database of
27 personal information;

28 (5) estimating a current or prospective account holder's age using
29 facial characterization or analysis; and

30 (6) matching a current or prospective account holder's verified
31 government-issued identification or alternate form of identification to:

32 (a) a photograph or video of the person; or

33 (b) a person who is physically present.²

34
35 4. For a social media platform account held by a New Jersey
36 minor account holder, a social media company:

37 a. shall prohibit direct messaging between the account and any
38 other adult user that is not linked to the account through adding on the
39 social media platform; and

40 b. shall not collect or use any personal information from the
41 posts, content, messages, text, or usage activities of the account other
42 than information that is necessary to comply with, and to verify
43 compliance with, State or federal law, which information includes a
44 parent or guardian's name, a birth date, and any other information
45 required to be submitted pursuant to ²**subsection b. of section 2 of**²

46 P.L. , c. (C.) (pending before the Legislature as this bill).

- 1 5. a. The division shall receive consumer complaints
2 alleging a violation of, investigate alleged violations of, and enforce
3 P.L. , c. (C.) (pending before the Legislature as this bill)
4 as outlined in this section. All civil penalties in this section shall be
5 collected by the director in a summary proceeding before a court of
6 competent jurisdiction pursuant to the provisions of the “Penalty
7 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
- 8 b. Subject to the conditions of subsection d. of this section, the
9 director may impose a civil penalty in an amount not to exceed
10 \$2,500 for each violation of P.L. , c. (C.) (pending before
11 the Legislature as this bill).
- 12 c. Subject to the conditions of subsection d. of this section, the
13 director may initiate a civil action to enforce P.L. , c. (C.)
14 (pending before the Legislature as this bill) in the Superior Court.
- 15 (1) A court presiding in an action initiated pursuant to this
16 subsection may:
- 17 (a) declare that an act or practice constitutes a violation of
18 P.L. , c. (C.) (pending before the Legislature as this bill);
19 (b) issue an injunction against further violation of P.L. ,
20 c. (C.) (pending before the Legislature as this bill);
21 (c) order disgorgement, for payment to an individual who is
22 identified by the court as an injured user or injured account holder,
23 of any money received in connection with a violation of P.L. ,
24 c. (C.) (pending before the Legislature as this bill);
25 (d) impose a civil penalty in an amount not to exceed \$2,500 for
26 each violation of P.L. , c. (C.) (pending before the
27 Legislature as this bill);
28 (e) award actual damages to an injured user or injured account
29 holder; and
30 (f) award any other relief the court deems reasonable and
31 necessary.
- 32 (2) If a court grants judgment or injunctive relief in an action
33 initiated pursuant to this subsection, the court shall award the
34 division reasonable attorney fees, court costs, and investigative
35 fees.
- 36 d. (1) At least 30 days prior to initiating an enforcement action
37 against a person pursuant to subsection b. or c. of this section, the
38 division shall provide the person with a written notice identifying
39 and explaining the basis for each alleged violation of P.L. ,
40 c. (C.) (pending before the Legislature as this bill).
- 41 (2) Except as provided in paragraph (3) of this subsection, the
42 division shall not initiate an enforcement action against a person
43 pursuant to subsection b. or c. of this section if that person:
- 44 (a) cures the violation within 30 days after receiving notice
45 pursuant to paragraph (1) of this subsection; and
46 (b) provides the division with a written statement that the person
47 has cured the violation and that no further violation will occur.

1 (3) Notwithstanding any provision of this section to the
2 contrary, the division may initiate a civil action pursuant to
3 subsection c. of this section against a person that:

4 (a) fails to cure a violation after receiving notice pursuant to
5 paragraph (1) of this subsection; or

6 (b) commits another violation of the same provision of P.L. ,
7 c. (C.) (pending before the Legislature as this bill) after
8 meeting the conditions of paragraph (2) of this subsection for a
9 prior noticed violation.

10 e. The division shall be entitled to such penalties, fines, or fees
11 as may be authorized pursuant to this section in any successful
12 enforcement action pursuant to this section for a violation of
13 P.L. , c. (C.) (pending before the Legislature as this bill).

14

15 6. a. An individual may bring an action against a social
16 media company that does not comply with any provision of P.L. ,
17 c. (C.) (pending before the Legislature as this bill). An
18 action pursuant to this subsection shall be brought in the Superior
19 Court of the county in which the individual bringing the action
20 resides.

21 b. If a court finds that a person has failed to comply with any
22 provision of P.L. , c. (C.) (pending before the Legislature
23 as this bill), the individual bringing an action pursuant to subsection
24 a. of this section shall be entitled to:

25 (1) reasonable attorney fees and court costs; and

26 (2) an amount equal to the greater of:

27 (a) \$2,500 per instance of violation; or

28 (b) actual damages for financial, physical, or emotional harm
29 incurred by the individual bringing the action pursuant to
30 subsection a. of this section, if the court determines that the harm is
31 a direct consequence of the violation or violations.

32

33 7. A waiver or limitation of any of the following shall be void
34 as against public policy and shall not be enforced or given legal
35 effect, notwithstanding any contract or choice-of-law provision
36 therein:

37 a. any protection or requirement included in P.L. ,
38 c. (C.) (pending before the Legislature as this bill);

39 b. the right to cooperate with the division and to file a
40 complaint with the division in connection with an investigation,
41 alleged violation, or other proceeding pursuant to any provision of
42 P.L. , c. (C.) (pending before the Legislature as this bill)
43 and regulations established by the division pursuant to its authority;
44 or

45 c. the right to file a private right of action pursuant to section 6
46 of P.L. , c. (C.) (pending before the Legislature as this
47 bill).

- 1 8. The division shall submit an annual report to the Governor,
2 and to the Legislature pursuant to section 2 of P.L.1991, c.164
3 (C.52:14-19.1), that evaluates the division's ability to reduce the
4 unconsented use of social media platforms by minors and enforce
5 the provisions of P.L. , c. (C.) (pending before the
6 Legislature as this bill). The report shall include, at minimum, a list
7 of the:
- 8 a. alleged violations the division has received during the year;
 - 9 b. administrative fines and civil penalties assessed during the
10 year; and
 - 11 c. administrative fines and civil penalties collected during the
12 year.
- 13
- 14 9. This act shall take effect ²**[immediately]** 180 days following
15 the date of enactment².