

SENATE, No. 4215

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED DECEMBER 7, 2023

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)

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 introduced.



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
16 also include any designation that enables direct messaging between
17 the two accounts when such accounts do not permit such messaging
18 with other users generally. "Adding" includes, but is not limited to,
19 friending, following, or similar actions.

20 "Director" means the Director of the Division of Consumer
21 Affairs in the Department of Law and Public Safety.

22 "Division" means the Division of Consumer Affairs established
23 within the Department of Law and Public Safety pursuant to
24 P.L.1971, c.134 (C.52:17B-118 et seq.).

25 "Educational entity" means a school district, charter school,
26 renaissance school, non-public school, or institution of higher
27 education.

28 "Individual" means a natural person.

29 "Minor" means an individual who is under the age of 18.

30 "New Jersey account holder" means an individual who is a New
31 Jersey resident and an account holder. "New Jersey account
32 holder" includes a "New Jersey minor account holder."

33 "New Jersey minor account holder" means a New Jersey account
34 holder who is a minor.

35 "Person" means any individual, business, or other legal entity
36 and its agents, assignees, or representatives.

37 "Post" means content that an account holder makes available on
38 a social media platform for other account holders or users to view.

39 "Social media company" means a person that provides or
40 operates a social media platform with at least five million account
41 holders worldwide.

42 "Social media platform" or "platform" means a public or
43 semipublic internet-based service or application that has users in
44 this State, which service or application: a. allows users to construct
45 a public or semipublic profile for the purposes of using the
46 platform, populate a list of other users with whom the user shares a
47 social connection through the platform, and post content viewable
48 by other users of the platform; and b. is designed to connect users

1 within the platform to facilitate social interactions, except that a
2 service or application that provides email or direct messaging
3 services shall not be considered to meet this criterion solely based
4 on the existence of that functionality.

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

8

9 2. a. A social media company shall not permit a New Jersey
10 resident who is a minor to be an account holder on the social media
11 company’s social media platform unless the minor has obtained the
12 express consent of a parent or guardian.

13 b. To provide express consent pursuant to subsection a. of this
14 section, the parent or guardian of a minor shall provide the parent or
15 guardian’s government-issued identification and credit card
16 information to the social media company and consent to a fee of not
17 more than 35 cents to be charged to the credit card provided.

18 c. Notwithstanding any provision of P.L. , c. (C.)
19 (pending before the Legislature as this bill), a social media
20 company shall not permit a New Jersey resident who is a minor to
21 hold or open an account on a social media platform if the minor is
22 ineligible to hold or open an account pursuant to any other
23 provision of State or federal law.

24

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

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

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

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

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

41 (2) until all verification requirements are met.

42

43 4. For a social media platform account held by a New Jersey
44 minor account holder, a social media company:

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

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1 b. shall not collect or use any personal information from the
2 posts, content, messages, text, or usage activities of the account
3 other than information that is necessary to comply with, and to
4 verify compliance with, State or federal law, which information
5 includes a parent or guardian's name, a birth date, and any other
6 information required to be submitted pursuant to subsection b. of
7 section 2 of P.L. , c. (C.) (pending before the Legislature
8 as this bill).

9
10 5. a. The division shall receive consumer complaints alleging a
11 violation of, investigate alleged violations of, and enforce P.L. , c.
12 (C.) (pending before the Legislature as this bill) as outlined in
13 this section. All civil penalties in this section shall be collected by
14 the director in a summary proceeding before a court of competent
15 jurisdiction pursuant to the provisions of the "Penalty Enforcement
16 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

17 b. Subject to the conditions of subsection d. of this section, the
18 director may impose a civil penalty in an amount not to exceed
19 \$2,500 for each violation of P.L. , c. (C.) (pending before
20 the Legislature as this bill).

21 c. Subject to the conditions of subsection d. of this section, the
22 director may initiate a civil action to enforce P.L. , c. (C.)
23 (pending before the Legislature as this bill) in the Superior Court.

24 (1) A court presiding in an action initiated pursuant to this
25 subsection may:

26 (a) declare that an act or practice constitutes a violation of
27 P.L. , c. (C.) (pending before the Legislature as this bill);

28 (b) issue an injunction against further violation of P.L. ,
29 c. (C.) (pending before the Legislature as this bill);

30 (c) order disgorgement, for payment to an individual who is
31 identified by the court as an injured user or injured account holder,
32 of any money received in connection with a violation of P.L. ,
33 c. (C.) (pending before the Legislature as this bill);

34 (d) impose a civil penalty in an amount not to exceed \$2,500 for
35 each violation of P.L. , c. (C.) (pending before the
36 Legislature as this bill);

37 (e) award actual damages to an injured user or injured account
38 holder; and

39 (f) award any other relief the court deems reasonable and
40 necessary.

41 (2) If a court grants judgment or injunctive relief in an action
42 initiated pursuant to this subsection, the court shall award the
43 division reasonable attorney fees, court costs, and investigative
44 fees.

45 d. (1) At least 30 days prior to initiating an enforcement action
46 against a person pursuant to subsection b. or c. of this section, the
47 division shall provide the person with a written notice identifying

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1 and explaining the basis for each alleged violation of P.L. ,
2 c. (C.) (pending before the Legislature as this bill).

3 (2) Except as provided in paragraph (3) of this subsection, the
4 division shall not initiate an enforcement action against a person
5 pursuant to subsection b. or c. of this section if that person:

6 (a) cures the violation within 30 days after receiving notice
7 pursuant to paragraph (1) of this subsection; and

8 (b) provides the division with a written statement that the person
9 has cured the violation and that no further violation will occur.

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

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

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

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

23

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

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

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

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

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

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

40

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

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

47 b. the right to cooperate with the division and to file a
48 complaint with the division in connection with an investigation,

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1 alleged violation, or other proceeding pursuant to any provision of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 and regulations established by the division pursuant to its authority;
4 or

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

8
9 8. The division shall submit an annual report to the Governor,
10 and to the Legislature pursuant to section 2 of P.L.1991, c.164
11 (C.52:14-19.1), that evaluates the division's ability to reduce the
12 unconsented use of social media platforms by minors and enforce
13 the provisions of P.L. , c. (C.) (pending before the
14 Legislature as this bill). The report shall include, at minimum, a list
15 of the:

16 a. alleged violations the division has received during the year;
17 b. administrative fines and civil penalties assessed during the
18 year; and
19 c. administrative fines and civil penalties collected during the
20 year.

21
22 9. This act shall take effect immediately.

23
24

25 STATEMENT

26

27 This bill requires age verification and parent or guardian consent
28 for a minor's use of a social media platform and prohibits certain
29 messaging between adults and minors on a social media platform.

30 Specifically, the bill prohibits a social media company from
31 permitting a New Jersey resident who is a minor to be an account
32 holder on the social media company's social media platform unless
33 the minor has obtained the express consent of a parent or guardian.
34 To provide express consent, the parent or guardian of a minor is
35 required to provide the parent or guardian's government-issued
36 identification and credit card information to the social media
37 company and consent to a fee of not more than 35 cents to be
38 charged to the credit card provided. The bill's provisions do not
39 permit a social media company to allow a New Jersey resident who
40 is a minor to hold or open an account on a social media platform if
41 the minor is ineligible to hold or open an account pursuant to any
42 other provision of State or federal law.

43 The bill also requires a social media company to verify the age
44 of an existing or new New Jersey account holder and, if the existing
45 or new account holder is a minor, confirm that a minor has obtained
46 express consent from a parent or guardian in accordance with the
47 bill's provisions: (1) for a new account, at the time the New Jersey
48 resident opens the account; or (2) for a New Jersey account holder

1 who has not provided age verification, within 14 calendar days of
2 the New Jersey account holder's attempt to access the account. If a
3 New Jersey account holder fails to meet the age verification
4 requirements within the required time period, the social media
5 company is required to deny access to the account: (1) upon the
6 expiration of the time period; and (2) until all verification
7 requirements are met.

8 The bill requires a social media company, for a social media
9 platform account held by a New Jersey minor account holder, to: (1)
10 prohibit direct messaging between the account and any other adult
11 user that is not linked to the account through adding on the social
12 media platform; and (2) not collect or use any personal information
13 from the posts, content, messages, text, or usage activities of the
14 account other than information that is necessary to comply with,
15 and to verify compliance with, State or federal law, which
16 information includes a parent or guardian's name, a birth date, and
17 any other information required to be submitted to provide express
18 consent.

19 The Division of Consumer Affairs (division) is responsible for
20 enforcement of the bill's provisions. The division is required to
21 receive consumer complaints related to, investigate alleged
22 violation of, and enforce the provisions of this bill. The division is
23 entitled to any penalties, fines, or fees collected for a violation.

24 Before initiating an enforcement action, the division is required
25 to provide written notice identifying and explaining the basis for
26 each alleged violation. A person receiving notice may prevent the
27 need for an enforcement action by curing the violation within 30
28 days of receiving notice and writing to the division that the
29 violation is cured and will not be repeated. If the entity does not
30 cure a violation, or if the same violation recurs after a prior cure,
31 the division may initiate a civil action as provided in the bill.

32 The division is authorized to impose a civil penalty of up to
33 \$2,500 for each violation or to initiate a civil suit in Superior Court.
34 A court may declare a violation of the bill's provisions, issue an
35 injunction against further violation, order payment of money
36 received in connection with the violation to an injured social media
37 platform user or account holder, and award actual damages to an
38 injured user or account holder. The court may grant other
39 reasonable and necessary relief. If the division proves a violation,
40 the division is entitled to reasonable attorney fees, court costs, and
41 investigative fees.

42 An individual may bring an action in the Superior Court of the
43 county where the individual resides against a social media
44 company, for failure to comply with the provisions of this bill. If
45 the suit is successful, an individual is entitled to reasonable attorney
46 fees and court costs. An individual is also entitled to either actual
47 damages or \$2,500, whichever is greater.

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1 Any waiver or limitation of a protection or requirement in this
2 bill, the right to report to or cooperate with the division, or the right
3 to file a private action as established in this bill is void as against
4 public policy.

5 Finally, the bill requires the division to submit an annual report
6 to the Governor and the Legislature that evaluates the division's
7 ability to reduce the unconsented use of social media platforms by
8 minors and enforce the bill's provisions. The report is required to
9 include, at minimum, a list of the: (1) alleged violations the division
10 has received during the year; (2) administrative fines and civil
11 penalties assessed during the year; and (3) administrative fines and
12 civil penalties collected during the year.