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 Senate Health, Human Services and Senior Citizens Committee on December 14, 2023, with amendments.
AN ACT requiring age verification and parent or guardian consent for a minor’s use of a social media platform and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

   “Account holder” means an individual who has or who creates an account or profile on a social media platform.

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

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

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

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

   “Individual” means a natural person.

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

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

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

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

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

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

   “Social media platform” or “platform” means a public or semipublic internet-based service or application that has users in this State, which service or application: a. allows users to construct a public or semipublic profile for the purposes of using the platform,

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:
Senate SHH committee amendments adopted December 14, 2023.
populate a list of other users with whom the user shares a social
connection through the platform, and post content viewable by other
users of the platform; and b. is designed to connect users within the
platform to facilitate social interactions, except that a service or
application that provides email or direct messaging services shall not
be considered to meet this criterion solely based on the existence of
that functionality. 1

“Social media platform” shall not include an
Internet-based service or application for which interactions between
users are solely related to the provision of direct messages,
commercial and financial transactions, peer-to-peer payments,
consumer engagement around products, product reviews, sellers,
services, events, or places, or any combination thereof. 1

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

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

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

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

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

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

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

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

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

(2) until all verification requirements are met.
4. For a social media platform account held by a New Jersey minor account holder, a social media company:
   a. shall prohibit direct messaging between the account and any other adult user that is not linked to the account through adding on the social media platform; and
   b. shall not collect or use any personal information from the posts, content, messages, text, or usage activities of the account other than information that is necessary to comply with, and to verify compliance with, State or federal law, which information includes a parent or guardian’s name, a birth date, and any other information required to be submitted pursuant to subsection b. of section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill).

5. a. The division shall receive consumer complaints alleging a violation of, investigate alleged violations of, and enforce P.L. , c. (C. ) (pending before the Legislature as this bill) as outlined in this section. All civil penalties in this section shall be collected by the director in a summary proceeding before a court of competent jurisdiction pursuant to the provisions of the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
   b. Subject to the conditions of subsection d. of this section, the director may impose a civil penalty in an amount not to exceed $2,500 for each violation of P.L. , c. (C. ) (pending before the Legislature as this bill).
   c. Subject to the conditions of subsection d. of this section, the director may initiate a civil action to enforce P.L. , c. (C. ) (pending before the Legislature as this bill) in the Superior Court.
      (1) A court presiding in an action initiated pursuant to this subsection may:
         (a) declare that an act or practice constitutes a violation of P.L. , c. (C. ) (pending before the Legislature as this bill);
         (b) issue an injunction against further violation of P.L. , c. (C. ) (pending before the Legislature as this bill);
         (c) order disgorgement, for payment to an individual who is identified by the court as an injured user or injured account holder, of any money received in connection with a violation of P.L. , c. (C. ) (pending before the Legislature as this bill);
         (d) impose a civil penalty in an amount not to exceed $2,500 for each violation of P.L. , c. (C. ) (pending before the Legislature as this bill);
         (e) award actual damages to an injured user or injured account holder; and
         (f) award any other relief the court deems reasonable and necessary.
      (2) If a court grants judgment or injunctive relief in an action initiated pursuant to this subsection, the court shall award the
division reasonable attorney fees, court costs, and investigative 
fees.

d. (1) At least 30 days prior to initiating an enforcement action 
against a person pursuant to subsection b. or c. of this section, the 
division shall provide the person with a written notice identifying 
and explaining the basis for each alleged violation of P.L. , 
c. (C. ) (pending before the Legislature as this bill).

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

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

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

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

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

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

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

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

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

(1) reasonable attorney fees and court costs; and

(2) an amount equal to the greater of:

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

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

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

a. any protection or requirement included in P.L. ,

c. (C. ) (pending before the Legislature as this bill);

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

or

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

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

a. alleged violations the division has received during the year;

b. administrative fines and civil penalties assessed during the year; and

c. administrative fines and civil penalties collected during the year.

9. This act shall take effect immediately.