

[First Reprint]

SENATE, No. 4215

STATE OF NEW JERSEY

220th LEGISLATURE

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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 reported by the Senate Health, Human Services and Senior Citizens Committee on December 14, 2023, with amendments.



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 “Director” means the Director of the Division of Consumer Affairs
21 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 P.L.1971,
24 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 holder”
32 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 and
36 its agents, assignees, or representatives.

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

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

42 “Social media platform” or “platform” means a public or
43 semipublic internet-based service or application that has users in this
44 State, which service or application: a. allows users to construct a
45 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:

¹Senate SHH committee amendments adopted December 14, 2023.

1 populate a list of other users with whom the user shares a social
2 connection through the platform, and post content viewable by other
3 users of the platform; and b. is designed to connect users within the
4 platform to facilitate social interactions, except that a service or
5 application that provides email or direct messaging services shall not
6 be considered to meet this criterion solely based on the existence of
7 that functionality. ¹“Social media platform” shall not include an
8 Internet-based service or application for which interactions between
9 users are solely related to the provision of direct messages,
10 commercial and financial transactions, peer-to-peer payments,
11 consumer engagement around products, product reviews, sellers,
12 services, events, or places, or any combination thereof.¹

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

15

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

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

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

31

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

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

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

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

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

48 (2) until all verification requirements are met.

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

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

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

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

22 b. Subject to the conditions of subsection d. of this section, the
23 director may impose a civil penalty in an amount not to exceed
24 \$2,500 for each violation of P.L. , c. (C.) (pending before
25 the Legislature as this bill).

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

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

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

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

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

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

42 (e) award actual damages to an injured user or injured account
43 holder; and

44 (f) award any other relief the court deems reasonable and
45 necessary.

46 (2) If a court grants judgment or injunctive relief in an action
47 initiated pursuant to this subsection, the court shall award the

- 1 division reasonable attorney fees, court costs, and investigative
2 fees.
- 3 d. (1) At least 30 days prior to initiating an enforcement action
4 against a person pursuant to subsection b. or c. of this section, the
5 division shall provide the person with a written notice identifying
6 and explaining the basis for each alleged violation of P.L. ,
7 c. (C.) (pending before the Legislature as this bill).
- 8 (2) Except as provided in paragraph (3) of this subsection, the
9 division shall not initiate an enforcement action against a person
10 pursuant to subsection b. or c. of this section if that person:
- 11 (a) cures the violation within 30 days after receiving notice
12 pursuant to paragraph (1) of this subsection; and
- 13 (b) provides the division with a written statement that the person
14 has cured the violation and that no further violation will occur.
- 15 (3) Notwithstanding any provision of this section to the
16 contrary, the division may initiate a civil action pursuant to
17 subsection c. of this section against a person that:
- 18 (a) fails to cure a violation after receiving notice pursuant to
19 paragraph (1) of this subsection; or
- 20 (b) commits another violation of the same provision of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) after
22 meeting the conditions of paragraph (2) of this subsection for a
23 prior noticed violation.
- 24 e. The division shall be entitled to such penalties, fines, or fees
25 as may be authorized pursuant to this section in any successful
26 enforcement action pursuant to this section for a violation of
27 P.L. , c. (C.) (pending before the Legislature as this bill).
28
- 29 6. a. An individual may bring an action against a social media
30 company that does not comply with any provision of P.L. , c.
31 (C.) (pending before the Legislature as this bill). An action
32 pursuant to this subsection shall be brought in the Superior Court of
33 the county in which the individual bringing the action resides.
- 34 b. If a court finds that a person has failed to comply with any
35 provision of P.L. , c. (C.) (pending before the Legislature
36 as this bill), the individual bringing an action pursuant to subsection
37 a. of this section shall be entitled to:
- 38 (1) reasonable attorney fees and court costs; and
39 (2) an amount equal to the greater of:
- 40 (a) \$2,500 per instance of violation; or
41 (b) actual damages for financial, physical, or emotional harm
42 incurred by the individual bringing the action pursuant to
43 subsection a. of this section, if the court determines that the harm is
44 a direct consequence of the violation or violations.
45
- 46 7. A waiver or limitation of any of the following shall be void
47 as against public policy and shall not be enforced or given legal

- 1 effect, notwithstanding any contract or choice-of-law provision
2 therein:
- 3 a. any protection or requirement included in P.L. ,
4 c. (C.) (pending before the Legislature as this bill);
- 5 b. the right to cooperate with the division and to file a
6 complaint with the division in connection with an investigation,
7 alleged violation, or other proceeding pursuant to any provision of
8 P.L. , c. (C.) (pending before the Legislature as this bill)
9 and regulations established by the division pursuant to its authority;
10 or
- 11 c. the right to file a private right of action pursuant to section 6
12 of P.L. , c. (C.) (pending before the Legislature as this
13 bill).
- 14
- 15 8. The division shall submit an annual report to the Governor,
16 and to the Legislature pursuant to section 2 of P.L.1991, c.164
17 (C.52:14-19.1), that evaluates the division's ability to reduce the
18 unconsented use of social media platforms by minors and enforce
19 the provisions of P.L. , c. (C.) (pending before the
20 Legislature as this bill). The report shall include, at minimum, a list
21 of the:
- 22 a. alleged violations the division has received during the year;
23 b. administrative fines and civil penalties assessed during the
24 year; and
25 c. administrative fines and civil penalties collected during the
26 year.
- 27
- 28 9. This act shall take effect immediately.