

ASSEMBLY, No. 4664

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 26, 2024

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SYNOPSIS

Prohibits social media platforms from promoting certain practices or features or eating disorders to child users.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT prohibiting social media platforms from promoting certain
2 eating behaviors to child users 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:*

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

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

12 “Content” means any statements, materials, documents,
13 photographs, graphics, or other information that is created, posted,
14 shared, or otherwise transmitted on a social media platform, except
15 that “content” shall not include any information that is posted
16 online exclusively for the purpose of cloud storage, transmitting
17 documents, or file collaboration.

18 “Eating disorder” means a behavioral condition characterized by
19 a severe and persistent disturbance in eating behaviors and
20 associated distressing thoughts and emotions, including but not
21 limited to, anorexia nervosa, bulimia nervosa, binge eating disorder,
22 and avoidant restrictive food intake disorder.

23 “Public or semi-public Internet-based service or application”
24 excludes any Internet-based service or application that is used to
25 facilitate communication within a business or enterprise among
26 employees or affiliates of the business or enterprise, provided that
27 access to the service or application is restricted to employees or
28 affiliates of the business or enterprise using the service or
29 application.

30 “Social media platform” or “platform” means a public or semi-
31 public Internet-based service or application that has users in this
32 State, which service or application:

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

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

41
42 2. a. Except as otherwise provided in this section, a social
43 media platform shall not use a design, algorithm, practice,
44 affordance, or feature that the platform knows, or which by the
45 exercise of reasonable care should have known, could cause child
46 users to develop an eating disorder, including, but not limited to,
47 promoting diet products.

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

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

4 (a) instituted and maintained an internal audit program in which
5 the platform:

6 (i) conducts quarterly audits of its practices, designs, features,
7 and affordances to determine whether these practices, designs,
8 features, or affordances cause, have the potential to cause, or
9 contribute to the development of eating disorders in child users on
10 the platform; and

11 (ii) hires an independent third party to conduct an annual audit of
12 its practices, designs, features, or affordances to determine whether
13 these practices, designs, features, or affordances cause, have the
14 potential to cause, or contribute to the development of eating
15 disorders in child users on the platform; and

16 (b) if an audit determines that any practice, design, feature, or
17 affordance used by the platform causes, has the potential to cause,
18 or contributes to the development of eating disorders in child users,
19 the platform has taken action to correct the practice, design, feature,
20 or affordance within 30 calendar days of the completion of the audit
21 and upon the social media platform's receipt of notification of the
22 issue;

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

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

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

30 (1) any content that is generated, uploaded, or shared on the
31 social media platform by a user of the platform, unless the content
32 is paid for, including through advertisement sales, by the social
33 media platform;

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

36 (3) any information or content for which the social media
37 platform was not, in whole or in part, responsible for creating or
38 developing; or

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

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

1 provisions of the “Penalty Enforcement Law of 1999,” P.L.1999,
2 c.274 (C.2A:58-10) pursuant to this subsection.

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4 3. This act shall take effect six months after enactment.

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STATEMENT

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9 This bill prohibits social media platforms from promoting certain
10 practices or features of eating disorders to child users in an effort to
11 curb the rate of eating disorders amongst children in this State.

12 A social media platform is prohibited from using a design,
13 algorithm, practice, affordance, or feature that the platform knows,
14 or which by the exercise of reasonable care should have known,
15 could cause child users to develop an eating disorder, including, but
16 not limited to, promoting diet products.

17 A social media platform would not be found to violate the
18 provisions of this bill if the social media platform: (1) demonstrates
19 that the platform instituted and maintained an internal quarterly
20 audit program in which the platform audits its practices, designs,
21 features, and affordances to determine whether these practices,
22 designs, features, or affordances cause, have the potential to cause,
23 or contribute to the development of eating disorders in child users
24 on the platform; hires an independent third party to conduct an
25 annual audit of its practices, designs, features, or affordances to
26 determine whether these practices, designs, features, or affordances
27 cause, have the potential to cause, or contribute to the development
28 of eating disorders in child users on the platform; and within 30
29 calendar days of the completion of the audit, the social media
30 platform corrects any practice, design, feature, or affordance if an
31 audit determines that the practice, design, feature, or affordance
32 used by the platform causes, has the potential to cause, or
33 contributes to the development of eating disorders in child users; (2)
34 is controlled by a business entity that generated less than \$100
35 million in gross revenue during the preceding calendar year; or (3)
36 is, as its primary function, a gaming platform.

37 Under the bill a social media platform would not be liable for
38 content that: (1) is generated, uploaded, or shared on the social
39 media platform by a user of the platform, unless the content is paid
40 for, including through advertisement sales, by the social media
41 platform; (2) is created solely by a third party and passively
42 displayed by the social media platform; (3) the social media
43 platform was not, in whole or in part, responsible for creating or
44 developing; or (4) involves child users that would otherwise be
45 protected by 47 U.S.C. s.230, the United States Constitution or the
46 State Constitution.

47 This bill defines “eating disorder” as a behavioral condition
48 characterized by a severe and persistent disturbance in eating

1 behaviors and associated distressing thoughts and emotions,
2 including but not limited to anorexia nervosa, bulimia nervosa,
3 binge eating disorder, and avoidant restrictive food intake disorder.

4 A social media platform that violates the provisions of the bill
5 would be liable for a civil penalty, not to exceed \$250,000 per
6 violation.