

2024 Regular Session

HOUSE BILL NO. 577

BY REPRESENTATIVE CARVER AND SENATOR MCMATH

COMMERCIAL REGULATIONS: Prohibits social media companies from collecting data to use for targeted advertising to minors

1 AN ACT

2 To enact Chapter 20-A of Title 51 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 51:1761 through 1764, relative to data collection of minors; to  
4 provide for definitions; to provide for legislative findings; to provide for  
5 prohibitions; to provide for protection from liability under certain circumstances, to  
6 provide for application stores; to provide for civil fines; to provide for enforcement;  
7 to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 20-A of Title 51 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 51:1761 through 1764, is hereby enacted to read as follows:

11 CHAPTER 20-A. PROTECTION OF CHILDREN'S INTERNET DATA

12 §1761. Legislative findings

13 The legislature hereby finds and declares all of the following:

14 (1) Technological advances over the past ten years and the advent of social  
15 media have opened the door to children for learning and exposure to cultures and  
16 interests worldwide.

17 (2) Unfortunately, data shows that over that same ten-year period, American  
18 teenagers, ages twelve through fifteen, who use social media over three hours each  
19 day faced twice the risk of having negative mental health outcomes, including  
20 depression and anxiety symptoms.

1           (3) The American Academy of Pediatrics declared a national emergency in  
2           child and adolescent mental health recognizing that the use of social media can result  
3           in poor mental health, poor general health outcomes, cyberbullying-related  
4           depression, body image and disordered eating behaviors, poor sleep, and most  
5           tragically, death.

6           (4) The main social media platforms are well aware of the damage they are  
7           doing to our children, but they have largely been held unaccountable and have little  
8           desire to self-regulate as their manipulative targeted advertising to children generated  
9           an estimated eleven billion dollars in advertising revenue in just one year.

10           (5) The children of Louisiana deserve better, and since the federal  
11           government has failed to take the necessary action to stop data sharing, selling, and  
12           targeted advertising, it is incumbent upon Louisiana to protect our children and hold  
13           the major social media platforms accountable.

14           §1762. Prohibitions; data collection; targeted advertising

15           A. As used in this Chapter, the following terms have the following  
16           meanings:

17           (1) "Account holder" means a person who has, or opens, an account or  
18           profile to use a social media company's platform and who is a resident of this state,  
19           including a minor account holder.

20           (2) "Application" means a software application or electronic service that may  
21           be run or directed by a user on a computer, a mobile device, or any other general  
22           purpose computing device.

23           (3) "Child", unless otherwise specified, means a consumer who is under  
24           sixteen years of age.

25           (4) "Covered application store" means a publicly available website, software  
26           application, electronic service, or platform that distributes and facilitates the  
27           download of applications from third-party developers to users of a computer, a  
28           mobile device, or any other general purpose computing device.

1           (5) "Developer" means any person, entity, or organization that creates, owns,  
2           or controls an application that is likely to be accessed by children and is responsible  
3           for the design, development, maintenance, and distribution of the application to end  
4           users through an application store.

5           (6) "Minor" means an individual under circumstances where a social media  
6           platform has actual knowledge that the individual is under the age of eighteen and  
7           is not emancipated or married.

8           (7) "Minor account holder" means an account holder who is a minor.

9           (8) "Online service, product, or feature" does not mean any of the following:

10           (a) Internet access and broadband service.

11           (b) A telecommunications service, as defined in 47 U.S.C. 153.

12           (c) The delivery or use of a physical product.

13           (9) "Resident" means an individual who currently resides in this state.

14           (10) "Sensitive personal data" means data collected directly from an account  
15           holder online that provides any of the following:

16           (a) Information that reveals any of the following about the account holder:

17           (i) Racial or ethnic origin.

18           (ii) Religious beliefs.

19           (iii) Gender.

20           (iv) Citizenship or immigration status.

21           (b) Information regarding an individual's medical history, mental or physical  
22           health condition, or medical treatment or diagnosis by a healthcare professional.

23           (c) Genetic personal data or biometric data, if the processing is for the  
24           purpose of identifying a specific account holder.

25           (d) Specific geolocation data.

26           (11) "Social media platform" means an internet site or application that is  
27           open to the public, allows a user to create an account, and enables users to  
28           communicate with other users for the primary purpose of posting information,  
29           comments, messages, or images. The term does not include any of the following:

1           (a) An internet service provider.

2           (b) Electronic mail.

3           (c) An online service, application, or internet site that consists primarily of  
4 news, sports, entertainment, or other information or content preselected by the  
5 provider that is not user-generated and where interactive functionality is incidental  
6 to, directly related to, or dependent on the provision of the content.

7           (d) Interactive gaming, virtual gaming, or an online service that allows the  
8 creation and uploading of content and the communication related to that content for  
9 the purpose of interactive gaming, educational entertainment, or associated  
10 entertainment.

11           (12)(a) "Targeted advertising" means displaying an advertisement to an  
12 account holder where the advertisement is selected based on personal data obtained  
13 from the account holder's activities over time and across non-affiliated websites or  
14 online applications to predict the account holder's preferences or interests.

15           (b) "Targeted advertising" does not include any of the following:

16           (i) Advertising based on an account holder's activities within a controller's  
17 website or online application or any affiliated website or online application.

18           (ii) Advertising based on the context of an account holder's current search  
19 query or visit to a website or online application.

20           (iii) Advertising directed to an account holder in response to the account  
21 holder's request for information, products, services, or feedback.

22           (iv) Processing personal data solely to measure or report on advertising  
23 performance, advertising reach, or advertising frequency.

24           B.(1) Any social media platform with more than one million account holders  
25 globally that is operating in this state is prohibited from displaying targeted  
26 advertising at a minor account holder.

27           (2) Any social media platform with more than one million account holders  
28 globally that is operating in this state is prohibited from selling sensitive personal  
29 data of a minor account holder.

1           C. Nothing in this Section prohibits a social media platform from doing any  
2           of the following:

3           (1) Allowing user-generated content to appear in a chronological manner for  
4           a minor account holder.

5           (2) Displaying user-generated content that has been selected or followed by  
6           a minor account holder.

7           (3) Providing search results to a minor account holder, if the search results  
8           are in response to a specific and immediately preceding query by the account holder.

9           D. If a social media platform makes reasonable efforts to determine whether  
10          an account holder is a resident, a social media platform will not be liable for data  
11          processing undertaken for that purpose, or for an erroneous determination with  
12          respect to residency.

13          E. If a social media platform chooses to conduct age estimation to determine  
14          which users are under eighteen, the social media platform will not be liable for data  
15          processing undertaken during the period in which it is estimating age, or for an  
16          erroneous estimation, or for data processing in the absence of reasonable evidence  
17          that the account holder is a minor.

18          §1763. Application stores

19          A. A covered application store that provides applications shall take all of the  
20          following actions:

21          (1) Take commercially reasonable steps to determine or estimate age of an  
22          account holder.

23          (2) Obtain parental or guardian consent prior to permitting a known child to  
24          download an application distributed or made accessible via the covered company's  
25          application store.

26          (3) Connect the developer of an application in the covered company's  
27          application store that is downloaded by a child upon approval by a parent or guardian  
28          with the approving parent or guardian for the purpose of connecting parents with the  
29          features outlined in R.S. 51:1754.

1           (4) Provide developers in the covered company's application store with a  
2           signal regarding both of the following:

3           (i) Whether a parent or guardian has provided consent in accordance with  
4           this Subsection.

5           (ii) Whether a child is under the age of thirteen, at least thirteen years of age  
6           and under sixteen years of age, or at least sixteen years of age and under eighteen  
7           years of age, via a real-time application programming interface, or API, on an  
8           ongoing basis to support the delivery of the features outlined in R.S. 51:1754.

9           B. Developers may rely on age signals and application store parental consent  
10           provided Subsection A of this Section for the purposes of complying with R.S.  
11           51:1752.

12           C. A covered company shall comply with this Chapter in a  
13           nondiscriminatory manner, specifically including but not limited to:

14           (1) A covered company shall impose at least the same restrictions and  
15           obligations on its own applications and application distribution as it does on those  
16           from third-party applications or application distributors.

17           (2) A covered company shall not use data collected from third parties, or  
18           consent mechanisms deployed for third parties, in the course of compliance with this  
19           Chapter to compete against those third parties, give the covered company's services  
20           preference relative to those of third parties, or to otherwise use this data or consent  
21           mechanism in an anti-competitive manner.

22           §1764. Enforcement; penalties

23           A. The attorney general may bring a civil action on behalf of a minor  
24           account holder against a social media platform.

25           B. A social media platform that violates the provisions of this Chapter shall  
26           be subject to a civil fine of up to ten thousand dollars per violation. A civil penalty  
27           imposed pursuant to this Section shall be deposited in the general fund of the state.

28           Section 2. This Act shall become effective upon signature by the governor or, if not  
29           signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 3 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 577 Engrossed

2024 Regular Session

Carver

**Abstract:** Prohibits social media companies from collecting data to use for targeted advertising to minors.

Proposed law provides for legislative findings.

Proposed law defines "account holder", "application", "child", "covered application store", "developer", "minor", "minor account holder", "online service, product, or feature", "resident", "sensitive personal data", "social media platform", and "targeted advertising".

Proposed law provides that any social media platform with more than one million account holders globally that is operating in this state is prohibited from using personal data and social media algorithms for targeting advertising at an account holder who is under the age of 18 and who is located in this state.

Proposed law provides that any social media platform with more than one million account holders globally that is operating in this state is prohibited from selling personal data of an account holder who is under the age of 18 and who is located in this state.

Proposed law provides that nothing in proposed law prohibits a social media platform from:

- (1) Allowing user-generated content to appear in a chronological manner for a minor account holder.
- (2) Displaying user-generated content that has been selected or followed by a minor account holder, as long as the content appears in a chronological manner.
- (3) Providing search results to a minor account holder, if the search results are in response to a specific and immediately preceding query by the account holder.

Proposed law provides what actions a covered application store shall take, which include:

- (1) Take commercially reasonable steps to determine or estimate age of an account holder.
- (2) Obtain parental or guardian consent prior to permitting a known child to download an application distributed or made accessible via the covered company's application store.
- (3) Connect the developer of an application in the covered company's application store that is downloaded by a child upon approval by a parent or guardian with the approving parent or guardian for the purpose of connecting parents with the features outlined in present law.

- (4) Provide developers in the covered company's application store with a signal regarding whether a parent or guardian has provided consent in accordance with proposed law and whether a child is under the age of 13, at least 13 years of age and under 16 years of age, or at least 16 years of age and under 18 years of age, via a real-time application programming interface, or API, on an ongoing basis to support the delivery of the features outlined in present law.

Proposed law provides that developers may rely on age signals and application store parental consent provided in proposed law for the purposes of complying with present law.

Proposed law provides that a covered company shall comply with present and proposed law in a nondiscriminatory manner, specifically including but not limited to:

- (1) A covered company shall impose at least the same restrictions and obligations on its own applications and application distribution as it does on those from third-party applications or application distributors.
- (2) A covered company shall not use data collected from third parties, or consent mechanisms deployed for third parties, in the course of compliance with present and proposed law to compete against those third parties, give the covered company's services preference relative to those of third parties, or to otherwise use this data or consent mechanism in an anti-competitive manner.

Proposed law provides that the attorney general may bring a civil action on behalf of a minor account holder against a social media platform.

Proposed law provides that a social media platform that violates the provisions of proposed law shall be subject to a civil fine of up to \$10,000 per violation. A civil penalty imposed pursuant to proposed law shall be deposited in the state general fund.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 51:1761-1764)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.
2. Expand definitions to include "account holder", "application", "child", "covered application store", "developer", "minor", "minor account holder", "online service, product, or feature", "resident", and "sensitive personal data".
3. Change "the processing of genetic" to "genetic".
4. Conform language with updated definitions.
5. Remove biometric data from the list of sensitive personal data.
6. Add that interactive gaming, virtual gaming, and certain online services are not included in a social media platform.
7. Change certain references from "consumer" to "account holder".
8. Change "using personal data" to "displaying".



9. Add when social media companies will not be liable.
10. Add what actions a covered application store are required to take.
11. Add that developers may rely on age signals and application store parental consent.
12. Add that a covered company shall comply with present and proposed law in a nondiscriminatory manner.