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To require that social media platforms verify the age of their users, prohibit the use of algorithmic recommendation systems on individuals under age 18, require parental or guardian consent for social media users under age 18, and prohibit users who are under age 13 from accessing social media platforms.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2023

Mr. SCHATZ (for himself, Mr. COTTON, Mr. MURPHY, and Mrs. BRITT) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require that social media platforms verify the age of their users, prohibit the use of algorithmic recommendation systems on individuals under age 18, require parental or guardian consent for social media users under age 18, and prohibit users who are under age 13 from accessing social media platforms.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Kids on
5 Social Media Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ALGORITHMIC RECOMMENDATION SYS-
4 TEM.—The term “algorithmic recommendation sys-
5 tem” means a fully or partially automated system
6 that suggests, promotes, or ranks information for, or
7 presents advertising to, an individual.

8 (2) COMMISSION.—The term “Commission”
9 means the Federal Trade Commission.

10 (3) INDIVIDUAL.—The term “individual” means
11 a social media platform user who habitually resides
12 in the United States.

13 (4) MINOR.—The term “minor” means an indi-
14 vidual who is at least 13 years of age but under 18
15 years of age.

16 (5) PERSONAL DATA.—The term “personal
17 data” means information that identifies or is linked
18 or reasonably linkable to an individual, household, or
19 consumer device.

20 (6) SOCIAL MEDIA PLATFORM.—The term “so-
21 cial media platform” means an online application or
22 website that—

23 (A) offers services to users in the United
24 States;

25 (B) allows users to create accounts to pub-
26 lish or distribute to the public or to other users

1 text, images, videos, or other forms of media
2 content; and

3 (C) provides the functions described in
4 paragraph (B) other than in support of—

5 (i) facilitating commercial trans-
6 actions;

7 (ii) facilitating teleconferencing and
8 videoconferencing features that are limited
9 to certain participants in the teleconference
10 or videoconference and are not posted pub-
11 licly or for broad distribution to other
12 users;

13 (iii) facilitating subscription-based
14 content or newsletters;

15 (iv) facilitating crowd-sourced content
16 for reference guides such as encyclopedias
17 and dictionaries;

18 (v) providing cloud-based electronic
19 storage, including cloud-based storage that
20 allows collaborative editing by invited
21 users;

22 (vi) making video games available for
23 play by users;

24 (vii) reporting or disseminating news;

(viii) providing other kinds of information concerning businesses, products, or travel information, including user reviews or rankings of such businesses, products, or other travel information;

(ix) providing educational information or instruction on behalf of or in support of an elementary school or secondary school, as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801);

(x) facilitating electronic mail or direct messaging between users (except for message boards or applications where users can add themselves to messaging groups consisting of large numbers of users) consisting of text, photos, or videos that are not posted publicly and are visible only to the senders and recipients; or

(xi) any other function that provides content to end users but does not allow the dissemination of user-generated content.

SEC. 3. REASONABLE STEPS FOR AGE VERIFICATION.

(a) IN GENERAL.—A social media platform shall take reasonable steps beyond merely requiring attestation, tak-

1 ing into account existing age verification technologies, to
2 verify the age of individuals who are account holders on
3 the platform.

4 (b) RESTRICTION ON USE AND RETENTION OF IN-
5 FORMATION.—A social media platform shall not—

6 (1) use any information collected as part of the
7 platform’s age verification process for any other pur-
8 pose; or

9 (2) retain any information collected from a user
10 as part of the age verification process except to the
11 extent necessary to prove that the platform has
12 taken reasonable steps to verify the age of the user.

13 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed to require a social media platform
15 to require users to provide government-issued identifica-
16 tion for age verification.

17 (d) EXISTING ACCOUNTS.—A social media platform
18 shall not be required to verify the age of account holders
19 on the platform for any account that, as of the date of
20 enactment of this Act, has existed for 90 days or more,
21 until 2 years after the date of enactment of this Act.

22 (e) UNVERIFIED ACCOUNTS.—A social media plat-
23 form shall not permit an individual to create a user ac-
24 count (or continue to use an existing user account after

1 the date that is 2 years after the date of enactment of
2 this Act) if the individual's age has not been verified.

3 (f) SAFE HARBOR.—A social media platform that, for
4 age verification purposes, relies in good faith on informa-
5 tion provided by the Pilot Program described in section
6 7 to verify the age of a user shall be deemed to have taken
7 reasonable steps to verify the age of that user on the plat-
8 form.

9 **SEC. 4. NO CHILDREN UNDER 13.**

10 A social media platform shall not permit an individual
11 to use the platform (other than merely viewing content,
12 as long as such viewing does not involve logging in or
13 interacting with the content or other users) unless the in-
14 dividual is known or reasonably believed to be age 13 or
15 older according to the age verification process used by the
16 platform.

17 **SEC. 5. PARENT OR GUARDIAN CONSENT FOR MINORS.**

18 (a) IN GENERAL.—A social media platform shall take
19 reasonable steps beyond merely requiring attestation, tak-
20 ing into account current parent or guardian relationship
21 verification technologies and documentation, to require the
22 affirmative consent of a parent or guardian to create an
23 account for any individual who the social media platform
24 knows or reasonably believes to be a minor according to
25 the age verification process used by the platform.

1 (b) RESTRICTION ON USE AND RETENTION OF IN-
2 FORMATION.—A social media platform shall not—

3 (1) use any information collected as part of the
4 parent or guardian consent process for any other
5 purpose; or

6 (2) retain any information collected as part of
7 the parent or guardian verification process except to
8 the extent necessary to—

9 (A) provide confirmation of the affirmative
10 consent of a parent or guardian for a minor
11 user to create an account;

12 (B) preserve the ability of the parent or
13 guardian to revoke such consent; and

14 (C) prove that the platform has taken rea-
15 sonable steps to obtain the affirmative consent
16 of a parent or guardian for a minor user to cre-
17 ate an account.

18 (c) ABILITY TO REVOKE CONSENT.—A social media
19 platform shall take reasonable steps to provide a parent
20 or guardian who has consented to their child's social
21 media use with the ability to revoke such consent.

22 (d) EFFECT OF REVOCATION OF CONSENT.—A social
23 media platform that receives a revocation of consent under
24 subsection (c) shall suspend, delete, or otherwise disable

1 the account of the minor user for whom consent was re-
2 voked.

3 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed to require a social media platform
5 to require minor users or their parents or guardians to
6 provide government-issued identification for relationship
7 verification or the provision of affirmative consent to cre-
8 ate an account.

9 (f) SAFE HARBOR.—A social media platform that, for
10 parent or guardian relationship verification purposes, re-
11 lies in good faith on information provided by the Pilot Pro-
12 gram described in section 7 shall be deemed to have taken
13 reasonable steps to verify the parent or guardian relation-
14 ship of the parent or guardian granting consent for a
15 minor user to create an account under this section.

16 **SEC. 6. PROHIBITION ON THE USE OF ALGORITHMIC REC-**
17 **COMMENDATION SYSTEMS ON TEENS UNDER**
18 **18.**

19 (a) IN GENERAL.—A social media platform shall not
20 use the personal data of an individual in an algorithmic
21 recommendation system unless the platform knows or rea-
22 sonably believes that the individual is age 18 or older ac-
23 cording to the age verification process used by the plat-
24 form.

1 (b) RULE OF CONSTRUCTION.—The prohibition in
 2 subsection (a) shall not be construed to prevent the sug-
 3 gestion of information or provision of advertising to an
 4 individual based on context where the information or ad-
 5 vertising is related to the content being viewed by the indi-
 6 vidual, as long as such information is suggested or adver-
 7 tising is provided solely based on context and is not tar-
 8 geted or recommended based on personal data of the indi-
 9 vidual.

10 **SEC. 7. SECURE DIGITAL IDENTIFICATION CREDENTIAL**
 11 **PILOT PROGRAM.**

12 (a) IN GENERAL.—Not later than 2 years after the
 13 date of enactment of this Act, the Secretary of Commerce
 14 (referred to in this section as the “Secretary”) shall estab-
 15 lish a pilot program (referred to in this Act as the “Pilot
 16 Program”) for providing a secure digital identification cre-
 17 dential to individuals who are citizens and lawful residents
 18 of the United States at no cost to the individual.

19 (b) PILOT PROGRAM PARAMETERS.—The Pilot Pro-
 20 gram shall do the following:

21 (1) Allow individuals to verify their age, or their
 22 parent or guardian relationship with a minor user,
 23 by uploading copies of government-issued and other
 24 forms of identification (such as records issued by an
 25 educational institution), or by validating the authen-

1 ticity of identity information provided by the indi-
2 vidual using electronic records of State departments
3 of motor vehicles, the Internal Revenue Service, the
4 Social Security Administration, State agencies re-
5 sponsible for vital records, or other governmental or
6 professional records providers that the Secretary de-
7 termines are able to reliably assist in the verification
8 of identity information.

9 (2) Meet or exceed the highest cybersecurity
10 standards expected of secure consumer products
11 such as financial or healthcare records or that are
12 required to obtain access to government systems.

13 (3) Provide users with the ability to—

14 (A) obtain a secure digital identification
15 credential that they may use to verify their age
16 or parent or guardian relationship with enrolled
17 social media platforms; and

18 (B) control what data they choose to allow
19 the pilot program to share with a social media
20 platform, without sharing copies of the under-
21 lying verification documents or any information
22 that the user does not affirmatively agree to
23 share with those social media platforms.

1 (4) Not retain copies of underlying govern-
2 mental records after verifying the information pro-
3 vided by the user.

4 (5) Provide users with the ability to disable or
5 delete their secure digital identification credential
6 and any associated records kept by the Pilot Pro-
7 gram at any time.

8 (6) Keep no records of the social media plat-
9 forms where users have verified their identity using
10 a secure digital identification credential, other than
11 aggregate data that is anonymized so that it cannot
12 be linked to individual users.

13 (c) ACCESS.—Information regarding individual users
14 of the Pilot Program shall be confidential, and no officer
15 or employee of the United States, or any other person who
16 has or had access to such information due to their involve-
17 ment with the Pilot Program, shall disclose any such infor-
18 mation to any entity, including law enforcement agencies,
19 except—

20 (1) with the consent of the user;

21 (2) in connection with oversight by an Inspector
22 General related to the proper implementation of this
23 Act;

1 (3) in connection with an investigation into a
2 user for committing fraud against the Pilot Pro-
3 gram; or

4 (4) pursuant to a court order.

5 (d) VOLUNTARY PROGRAM.—The Pilot Program de-
6 scribed in subsection (a) shall be voluntary, and nothing
7 in this Act shall be construed to require any individual
8 or social media platform to use the Pilot Program.

9 (e) SOCIAL MEDIA PLATFORM ENROLLMENT.—

10 (1) The Secretary may establish regulations for
11 social media platform enrollment in the Pilot Pro-
12 gram to ensure that enrolled social media platforms
13 employ appropriate privacy and technical protections
14 sufficient to prevent the abuse or improper release
15 of Pilot Program information relating to individual
16 users.

17 (2) The Secretary may revoke the enrollment of
18 any social media platform to protect the integrity
19 and security of the Pilot Program information.

20 (f) AUTHORITY TO ENTER AGREEMENTS.—The Sec-
21 retary shall have the authority to enter into memoranda
22 of agreement with Federal, State, tribal, or nongovern-
23 mental entities, including entering into contracts with pri-
24 vate identity verification technology providers, to facilitate
25 the establishment and operation of the Pilot Program.

1 (g) DESIGN REPORT TO CONGRESS.—Not later than
2 1 year after the date of enactment of this Act, the Sec-
3 retary shall submit to the Committee on Commerce of the
4 Senate, the Committee on Appropriations of the Senate,
5 the Committee on Energy and Commerce of the House
6 of Representatives, and the Committee on Appropriations
7 of the House of Representatives, a report outlining the
8 proposed design of the Pilot Program, including estimated
9 costs and the identification of any legal or other barriers
10 identified as impeding the creation and functioning of the
11 Pilot Program.

12 (h) ALLOWABLE USE.—The Pilot Program shall be
13 used only to establish online age verification and parental
14 consent for purposes of social media platform participa-
15 tion, and may not be used to establish eligibility for any
16 government benefit or legal status.

17 (i) SUNSET.—The Pilot Program shall end on the
18 later of—

19 (1) September 30 of the eighth year that begins
20 after the date of enactment of this Act; and

21 (2) September 30 of the fifth year that begins
22 after the date on which the Pilot Program begins
23 providing secure digital identification credentials to
24 individuals.

1 (j) AUTHORIZATION.—There are authorized to be ap-
 2 propriated to the Secretary such sums as may be nec-
 3 essary to carry out the provisions of this section.

4 **SEC. 8. ENFORCEMENT.**

5 (a) ENFORCEMENT BY COMMISSION.—

6 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
 7 TICES.—A violation of this Act by a social media
 8 platform shall be treated as a violation of a rule de-
 9 fining an unfair or deceptive act or practice pre-
 10 scribed under section 18(a)(1)(B) of the Federal
 11 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

12 (2) POWERS OF COMMISSION.—

13 (A) IN GENERAL.—Except as provided in
 14 subparagraph (C), the Commission shall enforce
 15 this Act in the same manner, by the same
 16 means, and with the same jurisdiction, powers,
 17 and duties as though all applicable terms and
 18 provisions of the Federal Trade Commission
 19 Act (15 U.S.C. 41 et seq.) were incorporated
 20 into and made a part of this Act.

21 (B) PRIVILEGES AND IMMUNITIES.—Ex-
 22 cept as provided in subparagraph (C), any per-
 23 son who violates this Act shall be subject to the
 24 penalties and entitled to the privileges and im-

1 communities provided in the Federal Trade Com-
 2 mission Act (15 U.S.C. 41 et seq.).

3 (C) NONPROFIT ORGANIZATIONS AND COM-
 4 MON CARRIERS.—Notwithstanding section 4 or
 5 5(a)(2) of the Federal Trade Commission Act
 6 (15 U.S.C. 44, 45(a)(2)) or any jurisdictional
 7 limitation of the Commission, the Commission
 8 shall also enforce this Act, in the same manner
 9 provided in subparagraphs (A) and (B) of this
 10 paragraph, with respect to—

11 (i) organizations not organized to
 12 carry on business for their own profit or
 13 that of their members; and

14 (ii) common carriers subject to the
 15 Communications Act of 1934 (47 U.S.C.
 16 151 et seq.).

17 (b) ENFORCEMENT BY STATES.—

18 (1) AUTHORIZATION.—Subject to paragraph
 19 (3), in any case in which the attorney general of a
 20 State has reason to believe that an interest of the
 21 residents of the State has been or is threatened or
 22 adversely affected by the engagement of a social
 23 media platform in a practice that violates this Act,
 24 the attorney general of the State may, as *parens*
 25 *patriae*, bring a civil action against the online service

1 provider or person on behalf of the residents of the
 2 State in an appropriate district court of the United
 3 States to obtain appropriate relief, including civil
 4 penalties in the amount determined under paragraph
 5 (2).

6 (2) CIVIL PENALTIES.—A social media platform
 7 that is found, in an action brought under paragraph
 8 (1), to have knowingly or repeatedly violated sections
 9 this Act shall, in addition to any other penalty other-
 10 wise applicable to a violation of this Act, be liable
 11 for a civil penalty equal to the amount calculated by
 12 multiplying—

13 (A) the greater of—

14 (i) the number of days during which
 15 the social media platform was not in com-
 16 pliance with that section; or

17 (ii) the number of end users who were
 18 harmed as a result of the violation; by

19 (B) an amount not to exceed the maximum
 20 civil penalty for which a person, partnership, or
 21 corporation may be liable under section
 22 5(m)(1)(A) of the Federal Trade Commission
 23 Act (15 U.S.C. 45(m)(1)(A)) (including any ad-
 24 justments for inflation).

1 (3) RIGHTS OF FEDERAL TRADE COMMIS-
2 SION.—

3 (A) NOTICE TO FEDERAL TRADE COMMIS-
4 SION.—

5 (i) IN GENERAL.—Except as provided
6 in clause (iii), the attorney general of a
7 State shall notify the Commission in writ-
8 ing that the attorney general intends to
9 bring a civil action under paragraph (1)
10 before initiating the civil action.

11 (ii) CONTENTS.—The notification re-
12 quired under clause (i) with respect to a
13 civil action shall include a copy of the com-
14 plaint to be filed to initiate the civil action.

15 (iii) EXCEPTION.—If it is not feasible
16 for the attorney general of a State to pro-
17 vide the notification required under clause
18 (i) before initiating a civil action under
19 paragraph (1), the attorney general shall
20 notify the Commission immediately upon
21 instituting the civil action.

22 (B) INTERVENTION BY FEDERAL TRADE
23 COMMISSION.—The Commission may—

1 (i) intervene in any civil action
 2 brought by the attorney general of a State
 3 under paragraph (1); and

4 (ii) upon intervening—

5 (I) be heard on all matters arising in the civil action; and

7 (II) file petitions for appeal of a
 8 decision in the civil action.

9 (4) INVESTIGATORY POWERS.—Nothing in this
 10 subsection may be construed to prevent the attorney
 11 general of a State from exercising the powers conferred on the attorney general by the laws of the
 12 State to—
 13 State to—

14 (A) conduct investigations;

15 (B) administer oaths or affirmations; or

16 (C) compel the attendance of witnesses or
 17 the production of documentary or other evidence.
 18

19 (5) PREEMPTIVE ACTION BY FEDERAL TRADE
 20 COMMISSION.—If the Commission institutes a civil
 21 action or an administrative action with respect to a
 22 violation of this Act, the attorney general of a State
 23 may not, during the pendency of the action, bring a
 24 civil action under paragraph (1) against any defendant
 25 named in the complaint of the Commission

1 based on the same set of facts giving rise to the al-
2 leged violation with respect to which the Commission
3 instituted the action.

4 (6) VENUE; SERVICE OF PROCESS.—

5 (A) VENUE.—Any action brought under
6 paragraph (1) may be brought in—

7 (i) the district court of the United
8 States that meets applicable requirements
9 relating to venue under section 1391 of
10 title 28, United States Code; or

11 (ii) another court of competent juris-
12 diction.

13 (B) SERVICE OF PROCESS.—In an action
14 brought under paragraph (1), process may be
15 served in any district in which the defendant—

16 (i) is an inhabitant; or

17 (ii) may be found.

18 (7) ACTIONS BY OTHER STATE OFFICIALS.—

19 (A) IN GENERAL.—In addition to civil ac-
20 tions brought by attorneys general under para-
21 graph (1), any other consumer protection offi-
22 cer of a State who is authorized by the State
23 to do so may bring a civil action under para-
24 graph (1), subject to the same requirements

1 and limitations that apply under this subsection
2 to civil actions brought by attorneys general.

3 (B) SAVINGS PROVISION.—Nothing in this
4 subsection may be construed to prohibit an au-
5 thorized official of a State from initiating or
6 continuing any proceeding in a court of the
7 State for a violation of any civil or criminal law
8 of the State.

9 (c) EXTRATERRITORIAL JURISDICTION.—There is
10 extraterritorial jurisdiction over any violation of this Act
11 if such violation involves an individual in the United
12 States or if any act in furtherance of the violation was
13 committed in the United States.

14 **SEC. 9. EFFECTIVE DATE.**

15 This Act shall take effect 1 year after the date of
16 enactment of this Act.

○