



Sen. Willie Preston

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10400HB5511sam002

LRB104 20720 SPS 38648 a

1 AMENDMENT TO HOUSE BILL 5511

2 AMENDMENT NO. _____. Amend House Bill 5511, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Children's Online Social Media Safety Act.

7 Section 5. Definitions. As used in this Act:

8 "Account holder" means an individual who is at least 18
9 years of age or a parent or legal guardian of a user who is
10 under 18 years of age in this State. "Account holder" does not
11 include a parent or legal guardian of an emancipated minor or a
12 parent or legal guardian who is not associated with a user's
13 device.

14 "Addictive feed" means a website, online service, online
15 application, or mobile application, or a portion thereof, in
16 which multiple pieces of media generated or shared by users of

1 a website, online service, online application, or mobile
2 application, either concurrently or sequentially, are
3 recommended, selected, or prioritized for display to a user
4 based, in whole or in part, on information associated with the
5 user or the user's device, unless any of the following
6 conditions are met:

7 (1) the recommendation, prioritization, or selection
8 is based on information that is not persistently
9 associated with the user's device and does not concern the
10 user's previous interactions with media generated or
11 shared by other users;

12 (2) the recommendation, prioritization, or selection
13 is based on data controlled by user-selected privacy or
14 accessibility settings or technical information concerning
15 the user's device;

16 (3) the user expressly and unambiguously requested the
17 specific media, media by the author, creator, or poster of
18 media the user has subscribed to, or media shared by users
19 to a page or group the user has subscribed to, provided
20 that the media is not recommended, selected, or
21 prioritized for display based, in whole or in part, on
22 other information that is not permissible under this
23 definition;

24 (4) the user expressly and unambiguously requested the
25 specific media by a specific author, creator, or poster of
26 media the user has subscribed to, or media shared by users

1 to a page or group the user has subscribed to as described
2 by paragraph (3), be blocked, prioritized, or
3 deprioritized for display, provided that the media is not
4 recommended, selected, or prioritized based, in whole or
5 in part, on other information associated with the user or
6 the user's device that is not permissible under this
7 definition;

8 (5) the media is direct and private communication
9 between users;

10 (6) the media is recommended, selected, or prioritized
11 only in response to a specific search inquiry by the user;

12 (7) the media that is recommended, selected, or
13 prioritized for display is exclusively next in a
14 preexisting sequence from the same author, creator,
15 poster, or source; or

16 (8) the recommendation, prioritization, or selection
17 is necessary to comply with the provisions of this Act.

18 "Addictive social media platform" means a covered platform
19 that offers users or provides users with an addictive feed as a
20 part of the service provided by that website, online service,
21 online application, or mobile application.

22 "Age bracket" means a user's age range, including, but not
23 limited to, the following:

24 (1) whether a user is under 13 years of age;

25 (2) whether the user is at least 13 years of age and
26 under 16 years of age;

1 (3) whether the user is at least 16 years of age and
2 under 18 years of age; or

3 (4) whether the user is at least 18 years of age.

4 "Age bracket data" means non-personally identifiable data
5 derived from a user's birth date or age for the purpose of
6 sharing with covered operators that indicates the user's age
7 bracket. "Age bracket data" includes a range of ages but does
8 not indicate the exact age of the user.

9 "Application" means a software application that may be run
10 or directed by a user on an Internet-enabled device.

11 "Application programming interface" means a system that
12 allows 2 or more software systems to communicate and exchange
13 information, features, and functionality.

14 "Application store" means a publicly available website,
15 software application, online service, or platform that
16 distributes and facilitates the download of applications from
17 third-party developers to users of an Internet-enabled device.

18 "Content" means user-to-user text, audio, or an image or
19 video upload.

20 "Covered manufacturer" means a manufacturer of an
21 Internet-enabled device, an operating system provider, or an
22 application store.

23 "Covered minor" means any user that a covered platform has
24 actual knowledge, or should have known, based on knowledge
25 fairly implied under objective circumstances, is under 18
26 years of age.

1 "Covered operator" means any person, business, or other
2 legal entity that owns, maintains, or controls:

3 (1) a covered platform; or

4 (2) an addictive social media platform.

5 "Covered platform" means a public or semipublic website,
6 online service, online application, or mobile application
7 that:

8 (1) is used by a covered minor in this State; and

9 (2) is intended to connect and allow a user to
10 socially interact within the website, service, or
11 application and enables a user to:

12 (A) construct a public or semipublic profile for
13 the purposes of signing into and using the service or
14 application;

15 (B) populate a public list of other users with
16 whom the user shares a social connection within the
17 service or application; or

18 (C) create or post content that is viewable by
19 other users, including content on message boards and
20 in chat rooms, and that presents the user with content
21 generated by other users.

22 "Covered platform" does not include a public or semipublic
23 Internet-based service or application that:

24 (1) exclusively provides email or direct messaging
25 services; and

26 (2) is used by and under the direction of an

1 educational entity, including a learning management system
2 or a student engagement program.

3 "Covered user" means a user of a covered platform who is a
4 resident of this State.

5 "Direct messaging" means sending private one-on-one or
6 group messages to other users that are separate from public
7 posts.

8 "Distribute" means to issue, sell, give, provide, deliver,
9 transfer, transmit, circulate, or disseminate by any means.

10 "Gifted currency" means a currency transfer between users
11 involving fiat currency or digital currency purchased with
12 fiat currency and used within a covered platform whether or
13 not it can be converted to money.

14 "Internet-enabled device" means a smartphone, tablet, or
15 personal laptop or desktop computer that provides cellular or
16 wireless connectivity, is capable of connecting to the
17 Internet, runs an operating system, and is capable of
18 downloading and running applications.

19 "Known adult" means any user that a covered platform has
20 actual knowledge, or should have known, based on knowledge
21 fairly implied under objective circumstances, is at least 18
22 years of age.

23 "News media" means personnel of a newspaper or other
24 periodical issued at regular intervals, whether in print or
25 electronic format, a news service, whether in print or
26 electronic format, a radio station, a television station, a

1 television network, a community antenna television service, or
2 a person or corporation engaged in making news reels or other
3 motion picture news for public showing.

4 "Operating system" means the system software that manages
5 the hardware of an Internet-enabled device and allows programs
6 and applications to run on the device.

7 "Operating system provider" means a commercial or
8 non-profit entity that controls the Internet-enabled device's
9 operating system, including the design, programming, or supply
10 of operating systems for the Internet-enabled devices.

11 "Parent" means a parent or legal guardian.

12 "Precise geolocation information" means information
13 derived from technology, including, but not limited to, global
14 positioning system level latitude and longitude coordinates or
15 other mechanisms, that directly identifies the specific
16 location within a radius of 1,750 feet.

17 "Precise geolocation information" does not include the
18 content of communications.

19 "Processor" means a person that processes personal data on
20 behalf of a covered operator or another processor.

21 "Publish" means to communicate or make information
22 available to another person or entity on a publicly available
23 website, online service, online application, or mobile
24 application.

25 "Verifiable parental consent" has the meaning set forth in
26 the Children's Online Privacy Protection Act, 15 U.S.C.

1 6501(9), and its implementing regulations under 16 CFR 312.5.

2 Section 10. Age assurance requirements.

3 (a) No later than January 1, 2028, a covered manufacturer
4 that offers an account setup feature for an Internet-enabled
5 device shall:

6 (1) provide an accessible interface at account setup
7 that requires an account holder to indicate the birth
8 date, age, or both, of the primary user of that device for
9 purposes of providing a signal regarding the primary
10 user's age bracket to covered operators;

11 (2) upon receiving separate prior consent of the user
12 to share the user's age bracket data with a specific
13 covered operator, provide the covered operator with the
14 technical ability to call a digital signal that contains
15 the user's age bracket data by a reasonably consistent
16 application programming interface; and

17 (3) send only the minimum amount of information
18 necessary to comply with this Act and not share the
19 digital signal information, or any information that
20 conveys the user's age bracket data, with a third party
21 for a purpose not required by this Act, except where
22 legally required.

23 For a device on which account setup was completed before
24 January 1, 2028, a covered manufacturer shall, before July 1,
25 2028, provide an accessible interface that allows an account

1 holder to indicate the birth date, age, or both, of the primary
2 user of that device for the purpose of providing a signal
3 regarding the primary user's age bracket to covered operators.

4 (b) By July 1, 2028, a covered operator shall request from
5 a covered manufacturer an age bracket signal for the primary
6 user of an Internet-enabled device when the user downloads or
7 launches a covered platform. If the signal indicates that a
8 user is under 18, then the covered operator shall treat the
9 signal as an authoritative indicator of the user's age bracket
10 and the covered operator shall be deemed to have actual
11 knowledge that a user is a covered minor only with respect to
12 that specific device; provided, however, that a covered
13 operator shall not willfully disregard clear and convincing
14 information otherwise available to the covered operator that
15 indicates a user's age is different than that indicated by the
16 age bracket signal provided by a covered manufacturer.

17 (c) A covered operator that receives a signal in
18 accordance with this Section shall not:

19 (1) request more information from a covered
20 manufacturer than the minimum amount of information
21 necessary to determine the user's age bracket;

22 (2) request a signal from a covered manufacturer more
23 than once each year, unless in response to a request by the
24 user to update the person's age bracket;

25 (3) use any personal data of a user collected for age
26 assurance for any purpose except to comply with this Act

1 or to provide age-based settings and features; or

2 (4) disclose the age bracket data of a user to a third
3 party for a purpose not required by this Section.

4 (d) All digital signals transmitted in accordance with
5 this Section shall be encrypted to ensure data integrity and
6 security.

7 (e) A covered manufacturer that makes a good faith effort
8 to comply with this Section, taking into consideration
9 available technology and reasonable technical limitations or
10 outages, shall not be liable for an erroneous signal
11 indicating a user's age bracket data or any conduct by a
12 covered operator that receives a signal indicating a user's
13 age bracket data.

14 (f) A covered manufacturer shall comply with this Act in a
15 nondiscriminatory manner, including, but not limited to, by
16 complying with the following:

17 (1) A covered manufacturer shall impose at least the
18 same restrictions and obligations on its own websites,
19 applications, and online services as it does on
20 third-party websites, applications, and online services.

21 (2) A covered manufacturer shall not use non-publicly
22 available data collected from a third party in the course
23 of compliance with this Act to compete against that third
24 party, give the covered manufacturer's services preference
25 relative to those of a third party, or to otherwise use
26 this non-publicly available data in a manner unavailable

1 to that third party.

2 (g) This Section does not impose liability on a covered
3 manufacturer or covered operator that arises from the use of a
4 device or application by a person who is not the user to whom a
5 signal pertains.

6 Section 15. Protections for covered minors.

7 (a) For all users that the covered operator has determined
8 to be a covered minor, the covered operator shall use the
9 following settings by default:

10 (1) The covered operator shall not display the
11 existence of the covered minor's account on a covered
12 platform to any known adult user unless the covered minor
13 has expressly and unambiguously allowed a specific known
14 adult user to view the covered minor's account or has
15 expressly and unambiguously chosen to make the covered
16 minor's account's existence public.

17 (2) The covered operator shall not display media
18 created or posted by the covered minor on a covered
19 platform to any known adult user unless the covered minor
20 has expressly and unambiguously allowed a specific known
21 adult user to view the covered minor's media or has
22 expressly and unambiguously chosen to make the covered
23 minor's media publicly available.

24 (3) The covered operator shall not permit any known
25 adult user to like, comment on, or otherwise provide

1 feedback on the covered minor's media on a covered
2 platform unless the covered minor has expressly and
3 unambiguously allowed a specific known adult user to do
4 so.

5 (4) The covered operator shall not permit direct
6 messaging on a covered platform between the covered minor
7 and any known adult user unless the covered minor has
8 expressly and unambiguously decided to allow direct
9 messaging with a specific known adult user.

10 (5) The precise geolocation information of the minor
11 shall not be shared with any user unless the minor has
12 expressly and unambiguously chosen to share the covered
13 minor's location with the specific user.

14 (6) No user may receive or send gifted currency to the
15 minor unless the user is already connected to the covered
16 minor.

17 (7) The covered operator shall disable search engine
18 indexing of the covered minor's account profile.

19 (b) A parent of a covered minor or a covered minor
20 determined by a covered operator to be over the age of 16 may
21 override the default privacy settings described in subsection
22 (a). A parent of a covered minor may override the default
23 privacy settings described in subsection (a) for a covered
24 minor under the age of 16. A covered operator shall not provide
25 a covered minor with a single setting that makes all the
26 default privacy settings less protective at once. A covered

1 operator shall not request or prompt a covered minor to make
2 the covered minor's privacy settings less protective unless
3 the change is strictly necessary for the covered minor to
4 access a service or feature that they expressly and
5 unambiguously requested.

6 (c) For all users that the covered operator has determined
7 to be a covered minor, the covered operator shall provide a
8 mechanism that enables a parent to set a monthly limit on all
9 gifted currency related to the covered minor's account. The
10 covered operator shall establish a mechanism by which a parent
11 of a covered minor may easily view a history of all gifted
12 currency related to the covered minor's account at any time.

13 (d) It shall be unlawful for a covered operator under this
14 Section to, between the hours of 10 p.m. and 7 a.m., send
15 notifications to a covered minor unless:

16 (1) the covered operator has obtained verifiable
17 parental consent to send notifications during the time
18 restricted under this subsection; or

19 (2) the notification contemporaneously notifies the
20 covered user of a direct message received from another
21 user of the covered platform.

22 (e) It shall be unlawful for a covered operator of an
23 addictive social media platform to provide an addictive feed
24 to a covered minor unless the covered operator of the
25 addictive social media platform has obtained verifiable
26 parental consent to provide an addictive feed to a covered

1 minor.

2 (f) It shall be unlawful for a covered operator of an
3 addictive social media platform to enable the automatic
4 playing of media to a covered minor by default.

5 (g) A covered operator of an addictive social media
6 platform may choose not to provide services to minors. A
7 covered operator of an addictive social media platform shall
8 not withhold, degrade, lower the quality, or increase the
9 price of any product, service, or feature, other than as
10 necessary for compliance with the provisions of this Act, to a
11 covered user solely because the covered operator of the
12 addictive social media platform is not permitted to provide an
13 addictive feed to the covered user under this Act.

14 (h) All information collected for the purpose of obtaining
15 verifiable parental consent required under this Section shall
16 not be used for any purpose other than obtaining verifiable
17 parental consent and shall be deleted within a reasonable
18 period after an attempt to obtain verifiable parental consent,
19 except where it is necessary for the compliance with any
20 applicable provisions of State or federal law.

21 (i) Nothing in this Section shall be construed as
22 requiring a covered operator to give a parent who grants
23 verifiable parental consent any additional or special access
24 to or control over the data or accounts of the parent's child.

25 (j) Nothing in this Section shall be construed to prohibit
26 a covered operator from instituting a privacy setting for

1 covered minors or other users that is more protective than
2 that required by this Section.

3 (k) Nothing in this Section shall be construed as
4 requiring a covered operator to remove any user-generated
5 content or preventing access to information regarding sex,
6 sexuality, gender, and reproductive health that is not already
7 prohibited by existing law.

8 (l) Nothing in this Section shall be construed as
9 preventing any actions taken in good faith to restrict access
10 to or availability of any media.

11 Section 20. Application.

12 (a) A covered operator that complies with the provisions
13 of this Act shall not be held liable for any inaccuracies in
14 the covered user's age bracket data.

15 (b) A covered operator that receives a digital signal in
16 accordance with this Act may rely on that signal for purposes
17 of compliance with this Act and shall not be required to
18 independently verify the age of the user.

19 (c) A covered operator that reasonably relies on a digital
20 signal provided by a covered manufacturer shall not be liable
21 for an inaccurate age determination resulting from an
22 erroneous signal.

23 (d) Nothing in this Act shall be construed to prohibit a
24 covered operator from the ability to prevent, detect, protect
25 against, or respond to security incidents, identity theft,

1 fraud, harassment, malicious or deceptive activities, or any
2 illegal activity targeted at or involving the developer or its
3 services, preserve the integrity or security of systems, or
4 investigate, report, or prosecute those responsible for any
5 such action.

6 (e) This Act does not apply to any entity whose primary
7 purpose is news media and that has a majority of its workforce
8 consisting of individuals engaging in news media.

9 (f) This Act does not apply to a broadband Internet access
10 service provider, including any affiliate or subsidiary of the
11 provider. This Act does not create a private right of action or
12 cause of action to enforce any violation or alleged violation
13 of its provisions against a broadband Internet access service
14 provider, including any affiliate or subsidiary of the
15 provider, when the violation is alleged to be committed by
16 another entity using the provider's service. As used in this
17 subsection, "broadband Internet access service provider" has
18 the meaning set forth in 47 CFR 8.1.

19 Section 25. Enforcement by the Attorney General.

20 (a) When it appears to the Attorney General that a person
21 has engaged in, is engaging in, or is about to engage in any
22 act declared to be unlawful by this Act, or when the Attorney
23 General believes it to be in the public interest that an
24 investigation should be made to ascertain whether a person in
25 fact has engaged in, is engaging in, or is about to engage in

1 any practice declared to be unlawful under this Act, the
2 Attorney General may:

3 (1) require that person to file, on the terms the
4 Attorney General prescribes, a statement or report in
5 writing, under oath or otherwise, as to all information as
6 the Attorney General may consider necessary;

7 (2) examine under oath any person in connection with
8 the conduct;

9 (3) examine any merchandise or sample thereof, record,
10 book, document, account, or paper as the Attorney General
11 may consider necessary; and

12 (4) pursuant to an order of a circuit court, impound
13 any record, book, document, account, paper, or sample of
14 merchandise that is produced in accordance with this Act
15 and retain it in the Attorney General's possession until
16 the completion of all proceedings in connection with which
17 it is produced.

18 (b) To accomplish the objectives and to carry out the
19 duties prescribed by this Act, the Attorney General, in
20 addition to other powers conferred upon the Attorney General
21 by this Act, may issue subpoenas to any person, administer an
22 oath or affirmation to any person, conduct hearings in aid of
23 any investigation or inquiry, prescribe forms, and adopt rules
24 as may be necessary.

25 (c) Service by the Attorney General of any notice
26 requiring a person to file a statement or report, or of a

1 subpoena upon any person, shall be made:

2 (1) personally by delivery of a duly executed copy of
3 the subpoena to the person to be served, or if a person is
4 not a natural person, in the manner provided in the Code of
5 Civil Procedure when a complaint is filed, or

6 (2) by mailing by certified mail a duly executed copy
7 of the subpoena to the person to be served at the person's
8 last known abode or principal place of business within
9 this State.

10 (d) If any person fails or refuses to file any statement or
11 report or obey any subpoena issued by the Attorney General,
12 the Attorney General may file a complaint in the circuit court
13 for the following, until the person files the statement or
14 report or obeys the subpoena:

15 (1) the granting of injunctive relief or the
16 restraining of the sale or advertisement of any
17 merchandise by the person or the conduct that is involved;

18 (2) the vacating, annulling, or suspending of the
19 corporate charter of a corporation created by or under the
20 laws of this State, the revoking or suspending of the
21 certificate of authority to do business in this State of a
22 foreign corporation, or the revoking or suspending of any
23 other licenses, permits, or certificates issued under the
24 laws of this State to the person that are used to further
25 the allegedly unlawful practice; and

26 (3) the granting of other relief as may be required.

1 (e) In the administration of this Act, the Attorney
2 General may accept an Assurance of Voluntary Compliance with
3 respect to any act deemed to be violative of this Act from any
4 person who has engaged in, is engaging in, or was about to
5 engage in the act. Evidence of a violation of an Assurance of
6 Voluntary Compliance shall be prima facie evidence of a
7 violation of this Act in any subsequent proceeding brought by
8 the Attorney General against the alleged violator.

9 (f) Whenever the Attorney General has reason to believe
10 that any person is using, has used, or is about to use any act
11 declared by this Act to be unlawful, and that proceedings
12 would be in the public interest, the Attorney General may
13 bring an action in the name of the People of the State against
14 the person to restrain by preliminary or permanent injunction
15 the use of the act. The court, in its discretion, may exercise
16 all powers necessary, including, but not limited to: (i)
17 injunction; (ii) revocation, forfeiture, or suspension of any
18 license, charter, franchise, certificate, or other evidence of
19 authority of any person to do business in this State; (iii)
20 appointment of a receiver; (iv) dissolution of domestic
21 corporations or associations; (v) suspension or termination of
22 the right of foreign corporations or associations to do
23 business in this State; and (vi) restitution.

24 (g) In addition to the remedies provided in this Section,
25 the Attorney General exclusively may request, and a court may
26 award, a civil penalty of \$50,000 for each violation against a

1 covered manufacturer or a covered operator found by the court
2 to have engaged in any act declared unlawful under this Act.
3 Any moneys paid under this Act shall be deposited into the
4 Attorney General Court Ordered and Voluntary Compliance
5 Payment Projects Fund. Moneys in the Fund shall be used,
6 subject to appropriation, for the performance of any function
7 pertaining to the exercise of the duties of the Attorney
8 General, including, but not limited to, enforcement of any law
9 of this State; however, any moneys in the Fund that are
10 required by the court or by an agreement to be used for a
11 particular purpose shall be used for that purpose.

12 (h) When a receiver is appointed by the court under this
13 Act, the receiver shall have the power to sue for, collect,
14 receive and take into the receiver's possession all the goods
15 and chattels, rights and credits, moneys and effects, lands
16 and tenements, books, records, documents, papers, choses in
17 action, bills, notes, and property of every description,
18 derived by means of any practice declared to be illegal and
19 prohibited by this Act, including property with which the
20 property has been mingled if it cannot be identified in kind
21 because of the commingling, and to sell, convey, and assign
22 the same and hold and dispose of the proceeds thereof under the
23 direction of the court. Any person who has suffered damages as
24 a result of the use or employment of any unlawful practices and
25 submits proof to the satisfaction of the court that the person
26 has in fact been damaged, may participate with general

1 creditors in the distribution of the assets to the extent the
2 person has sustained out-of-pocket losses. In the case of a
3 partnership or business entity, the receiver shall settle the
4 estate and distribute the assets under the direction of the
5 court. The court shall have jurisdiction of all questions
6 arising in the proceedings and may make such orders and
7 judgments as may be required.

8 (i) Subject to an order of the court terminating the
9 business affairs of any person after receivership proceedings
10 held under this Act, the provisions of this Act shall not bar
11 any claims against any person who has acquired any moneys or
12 property, real or personal, by means of any act declared to be
13 unlawful under this Act.

14 (j) Nothing in this Act is intended to limit the remedies
15 available under any other law, including the Consumer Fraud
16 and Deceptive Business Practices Act.

17 (k) Except as otherwise expressly provided for in this
18 Act, nothing in this Act shall be construed to grant any person
19 a private right of action for damages or to enforce the
20 provisions of this Act.

21 Section 97. Severability. The provisions of this Act are
22 severable under Section 1.31 of the Statute on Statutes.

23 Section 99. Effective date. This Act takes effect January 1,
24 2028."