

E AND R AMENDMENTS TO LB 504

Introduced by Guereca, 7, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 **Section 1.** Sections 1 to 12 of this act shall be known and may be
4 cited as the Age-Appropriate Online Design Code Act.

5 **Sec. 2.** For purposes of the Age-Appropriate Online Design Code Act:

6 (1) Actual knowledge includes all information and inferences known
7 to the covered online service relating to the age of the individual,
8 including, but not limited to, self-identified age, and any age the
9 covered online service has attributed or associated with the individual
10 for any purpose, including marketing, advertising, or product
11 development;

12 (2) Child or children means an individual or individuals younger
13 than thirteen years of age;

14 (3) Compulsive usage means the persistent and repetitive use of a
15 covered online service that substantially limits one or more major life
16 activities of a user, including sleeping, eating, learning, reading,
17 concentrating, communicating, or working;

18 (4) Covered design feature means any feature or component of a
19 covered online service that will encourage or increase the frequency,
20 time spent, or activity of a user on the covered online service and
21 includes, but is not limited to:

22 (a) Infinite scroll;

23 (b) Rewards or incentives for frequency of visits or time spent on
24 the covered online service;

25 (c) Notifications or push alerts;

26 (d) In-game purchases; or

27 (e) Appearance altering filters;

1 (5)(a) Covered online service means a sole proprietorship, a limited
2 liability company, a corporation, an association, or any other legal
3 entity that owns, operates, controls, or provides an online service that:

4 (i) Conducts business in this state;

5 (ii) Is reasonably likely to be accessed by minors;

6 (iii) Alone, or jointly with its affiliates or subsidiaries or
7 parent companies, determines the purposes and means of the processing of
8 consumers' personal data; and

9 (iv) Either:

10 (A) Has annual gross revenue in excess of twenty-five million
11 dollars, adjusted every odd-numbered year to reflect changes in the
12 Consumer Price Index;

13 (B) Annually buys, receives, sells, or shares the personal data of
14 fifty thousand or more consumers, households, or devices, alone or in
15 combination with its affiliates or subsidiaries; or

16 (C) Derives at least fifty percent of its annual revenue from the
17 sale or sharing of consumers' personal data.

18 (b) A covered online service includes:

19 (i) An entity that controls or is controlled by a business that
20 shares a name, service mark, or trademark that causes a reasonable
21 consumer to understand that two or more entities are commonly owned; and

22 (ii) A joint venture or partnership composed of businesses in which
23 each has at least a forty percent interest in the joint venture or
24 partnership;

25 (6) Known to be a minor means actual knowledge that the covered
26 online service is reasonably likely to be accessed by minors;

27 (7) Minor means an individual younger than eighteen years of age;

28 (8) Online service means any service, product, or feature that is
29 accessible to the public via the Internet, including a website or
30 application. An online service includes a digital service, product, or
31 feature that is based in whole or in part on artificial intelligence. An

1 online service does not include any of the following:

2 (a) A telecommunications service as defined in 47 U.S.C. 153;

3 (b) A broadband Internet access service as defined in 47 C.F.R.
4 8.1(b);

5 (c) The sale, delivery, or use of a physical device; or

6 (d) A streaming service that provides only licensed media in a
7 continuous flow from the service, website, or application to the end user
8 and does not obtain a license to the media from a user or account holder
9 by agreement to its terms of service;

10 (9) Parent has the same meaning as in the federal Children's Online
11 Privacy Protection Act of 1998, 15 U.S.C. 6501 et seq., and the Federal
12 Trade Commission rules implementing such act;

13 (10) Personal data means any information, including derived data and
14 unique identifiers, that is linked or reasonably linkable, alone or in
15 combination with other information, to an identified or identifiable
16 individual or to a device that identifies, is linked to, or is reasonably
17 linkable to one or more identified or identifiable individuals in a
18 household. Personal data does not include publicly available data;

19 (11) Personalized recommendation system means a fully or partially
20 automated system used to suggest, promote, or rank content, including
21 other users, hashtags, or posts, based on the personal data of users;

22 (12) Precise geolocation information means any data that identifies
23 within a radius of one thousand eight hundred fifty feet a user's present
24 or past location or the present or past location of a device that links
25 or is linkable to a user or any data that is derived from a device that
26 is used or intended to be used to locate a user within a radius of one
27 thousand eight hundred fifty feet by means of technology that includes a
28 global positioning system that provides latitude and longitude
29 coordinates. Precise geolocation information does not include the content
30 of communications or any data generated or connected to advanced utility
31 metering infrastructure systems or equipment for use by a utility;

1 (13) Process means to perform an operation or set of operations by
2 manual or automated means on personal data. Process includes collecting,
3 using, storing, disclosing, sharing, analyzing, deleting, or modifying
4 personal data;

5 (14) Profile means any form of automated processing of personal data
6 to evaluate, analyze, or predict certain aspects relating to a user,
7 including a user's economic situation, health, personal preferences,
8 interests, reliability, behavior, location, or movements;

9 (15) Publicly available data means data (a) that is lawfully made
10 available from federal, state, or local government records, (b) that a
11 business has a reasonable basis to believe is lawfully made available to
12 the general public by the individual or from widely distributed media, or
13 (c) that is made available by a person to whom the individual has
14 disclosed the data if the individual has not restricted the data to a
15 specific audience. Publicly available data does not mean biometric data
16 collected by a covered online service about a user without the user's
17 knowledge;

18 (16) Reasonably likely to be accessed by minors means it is
19 reasonable to expect that the covered online service would be accessed by
20 an individual minor or by minors, based on satisfying either of the
21 following criteria:

22 (a) The covered online service has actual knowledge that a
23 particular consumer is a minor; or

24 (b) The covered online service is directed to children;

25 (17) Sensitive personal data means personal data that reveals:

26 (a) An individual's social security, driver's license, state
27 identification card, or passport number;

28 (b) An individual's account log-in, financial account, debit card,
29 or credit card number in combination with any required security or access
30 code, password, or credentials allowing access to an account;

31 (c) An individual's precise geolocation information;

1 (d) An individual's racial or ethnic origin, citizenship or
2 immigration status, religious or philosophical beliefs, or union
3 membership;

4 (e) The contents of an individual's mail, email, text messages, or
5 other forms of communications that perform similar functions, including
6 shared images and videos, unless the business is the intended recipient
7 of the communication;

8 (f) An individual's genetic data;

9 (g) Biometric data that uniquely identifies an individual,
10 including, but not limited to, personal images or physical
11 characteristics;

12 (h) Personal data concerning an individual's health; or

13 (i) Personal data revealing sex, sex life, sexual orientation,
14 gender, or gender identity;

15 (18) Targeted advertising means displaying advertisements to an
16 individual where the advertisement is selected based on personal data
17 obtained or inferred from that individual's activities over time and
18 across nonaffiliated websites or online applications to predict the
19 individual's preferences or interest. Targeted advertising does not
20 include:

21 (a) Advertisements based on activities within a covered online
22 service's own Internet websites or online applications;

23 (b) Advertisements based on the context of an individual's current
24 search query, visit to an Internet website, or use of an online
25 application;

26 (c) Advertisements directed to an individual in response to the
27 individual's request for information or feedback; or

28 (d) Processing personal data solely to measure or report advertising
29 frequency, performance, or reach; and

30 (19) User means, with respect to a covered online service, an
31 individual who registers an account or creates a profile on the covered

1 online service.

2 **Sec. 3.** (1) The Age-Appropriate Online Design Code Act does not
3 apply to:

4 (a) A federal, state, tribal, or local government entity in the
5 ordinary course of its operations;

6 (b) Personal data subject to a statute or regulation that is
7 controlled by a covered online service that is required to comply with:

8 (i) Title V of the federal Gramm-Leach-Bliley Act;

9 (ii) The federal Health Information Technology for Economic and
10 Clinical Health Act; or

11 (iii) Regulations promulgated under section 264 of the Health
12 Insurance Portability and Accountability Act of 1996; and

13 (c) Information, including, but not limited to, personal data,
14 collected as part of a clinical trial subject to the federal policy for
15 the protection of human subjects in accordance with:

16 (i) Good clinical practice guidelines issued by the International
17 Council for Harmonisation of Technical Requirements for Pharmaceuticals
18 for Human Use; or

19 (ii) Human subject protection requirements of the federal Food and
20 Drug Administration.

21 (2) The requirements of the Age-Appropriate Online Design Code Act
22 are in addition to and shall not limit or restrict in any way the
23 application of other laws, including, but not limited to, statutes, rules
24 and regulations, and the common law of Nebraska.

25 (3) In the event of a conflict between the Age-Appropriate Online
26 Design Code Act and one or more other laws, the law that affords the
27 greatest protection from harm to minors shall control.

28 **Sec. 4.** (1) Except as provided in subsections (2) and (3) of this
29 section, a covered online service shall exercise reasonable care in the
30 creation and implementation of any covered design feature to prevent and
31 mitigate the following harms to minors:

1 (a) Consistent with evidence-informed medical information, the
2 following mental health disorders: Anxiety, depression, eating disorders,
3 substance use disorders, and suicidal behaviors;

4 (b) Patterns of use that indicate or encourage compulsive usages by
5 minors;

6 (c) Physical violence, cyber bullying, and discriminatory harassment
7 of a minor;

8 (d) Sexual exploitation and abuse of minors;

9 (e) Harms caused by the promotion and marketing of narcotic drugs,
10 tobacco products, gambling, or alcohol; and

11 (f) Financial or other harms caused by predatory, unfair, or
12 deceptive marketing practices.

13 (2) Harms described in subsection (1) of this section are limited to
14 those for which liability is permitted under 47 U.S.C. 230.

15 (3) Nothing in this section shall be construed to require a covered
16 online service to prevent or preclude any user from deliberately and
17 independently searching for or specifically requesting content, or
18 accessing resources and information regarding the prevention or
19 mitigation of the harms described in this section.

20 **Sec. 5.** (1) A covered online service shall provide users with
21 accessible and easy-to-use tools that accomplish the following:

22 (a) Limit the ability of other users or visitors to communicate with
23 the user;

24 (b) Prevent other individuals from viewing the personal data of the
25 user;

26 (c) Prevent artificial intelligence from utilizing personal data to
27 communicate or interact with the user;

28 (d) Control the operation of all design features, including, but not
29 limited to, all covered design features, that are unnecessary in order to
30 provide the covered online service by allowing users to opt out of the
31 use of all design features or categories of design features;

1 (e) Control personalized recommendation systems by allowing users to
2 opt in to a chronological feed or by preventing categories of content
3 from being recommended;

4 (f) Control the use of in-game purchases or other transactions by
5 allowing users to opt out of all such purchases and transactions or to
6 place limits on such purchases and transactions; and

7 (g) Restrict the sharing of the precise geolocation information of
8 the user and provide notice regarding tracking of the user's precise
9 geolocation information.

10 (2) A covered online service shall provide a user with accessible
11 and easy to use options to limit the amount of time the user spends on
12 the covered online service.

13 (3) A covered online service shall establish default settings
14 applicable to an individual the covered online service knows is a minor
15 for the safeguards described in subsection (1) of this section at the
16 option or level that provides the highest protection available for the
17 safety of the individual.

18 **Sec. 6.** (1) A covered online service shall only collect and use the
19 minimum amount of a user's personal data necessary to provide the
20 specific elements of an online service with which a user has knowingly
21 engaged. Such personal data may not be used for reasons other than those
22 for which it was collected.

23 (2) A covered online service that collects personal data of a user
24 for age verification or estimation cannot use such personal data for
25 other purposes and shall delete such personal data after use for age
26 verification.

27 (3) A covered online service shall only retain the personal data of
28 a user as long as necessary to provide the specific elements of an online
29 service with which a user has knowingly engaged.

30 (4) A covered online service may not facilitate targeted advertising
31 to an individual the covered online service knows is a minor.

1 (5) A covered online service shall provide an obvious sign to a user
2 when precise geolocation information is being collected or used.

3 (6) The use of notifications and push alerts to an individual the
4 covered online service knows is a minor is prohibited between the hours
5 of 10 p.m. and 6 a.m. and between the hours of 8 a.m. and 4 p.m. on week
6 days during the school year in the minor's local time zone.

7 (7) A covered online service shall not profile an individual the
8 covered online service knows is a minor unless profiling is necessary to
9 provide a covered online service requested by such minor, and only with
10 respect to the aspects of the covered online service with which a minor
11 is actively and knowingly engaged.

12 (8) A covered online service shall ensure that settings for the
13 protections required pursuant to this section are set at the highest
14 protection available for the safety of the individual by default.

15 (9) If a covered online service allows parental monitoring, the
16 covered online service shall provide an obvious signal to the user when
17 such user is being monitored.

18 **Sec. 7.** (1) A covered online service shall treat all users of a
19 covered online service as a minor unless the covered online service has
20 actual knowledge that the user is not a minor.

21 (2) A covered online service shall provide parents with tools to
22 help parents protect and support minors using the covered online
23 services. Such parental tools shall be on by default for an individual
24 the covered online service knows is a child.

25 (3) A covered online service shall provide parents the ability to do
26 the following for an individual the covered online service knows is a
27 child or minor, as applicable:

28 (a) Manage the child's privacy and account settings in a manner that
29 allows parents to:

30 (i) View the child's account settings; and

31 (ii) Change and control privacy and account settings of the child;

1 (b) Restrict purchases and financial transactions of the minor; and
2 (c) Enable parents to view the total time spent on a covered online
3 service by a user the covered online service knows is a child and place
4 reasonable limits on such child's use of the covered online service.
5 Among such protections, a covered online service shall offer parents the
6 ability to restrict a child's use of the covered online service during
7 times of day specified by the parents, including during school hours and
8 at night.

9 (4) A covered online service shall notify a user when any of the
10 tools described in this section are in effect and describe what settings
11 have been applied.

12 **Sec. 8.** A covered online service shall establish mechanisms to
13 report harms to minors on covered online services.

14 **Sec. 9.** (1) A covered online service is prohibited from
15 facilitating advertisements for prohibited products, such as narcotic
16 drugs, tobacco products, gambling, and alcohol, to individuals the
17 covered online service knows are minors.

18 (2) A covered online service is prohibited from using dark patterns
19 or any other similar practices to subvert or impair user autonomy,
20 decision-making, or choice. Such dark patterns shall constitute a
21 deceptive trade practice under the Uniform Deceptive Trade Practices Act
22 and, in addition to any remedies or penalties available under the Age-
23 Appropriate Online Design Code Act, shall be subject to any remedies or
24 penalties available for a violation under the Uniform Deceptive Trade
25 Practices Act.

26 **Sec. 10.** (1) Each covered online service that utilizes personalized
27 recommendation systems is required to describe in its terms and
28 conditions, in a clear, conspicuous and easy to understand manner, how
29 such systems are used to provide information to minors and information
30 regarding how minors or their parents can opt out of or control such
31 systems.

1 (2) A covered online service shall provide clear, conspicuous, easy
2 to understand, and comprehensive information in a prominent location
3 describing the design safety for minors, the privacy protections for
4 minors, and the tools for parents that the covered online service has
5 adopted. Such disclosure shall also include a clear, conspicuous, and
6 easy to understand explanation as to how minors and parents may utilize
7 such design safety measures, privacy protections, and tools.

8 **Sec. 11.** (1) A covered online service shall annually issue a public
9 report, prominently posted to its website, prepared by an independent
10 third-party auditor that contains a detailed description of the covered
11 online service as it pertains to minors, including its covered design
12 features, its use of personal data, and its business practices. Each
13 report shall include the following information, categorized by age group
14 if appropriate:

15 (a) The purpose of the covered online service;

16 (b) The extent to which the covered online service is likely to be
17 accessed by minors;

18 (c) An accounting of the number of users the covered online service
19 knows to be minors in the state and an accounting of how much time such
20 users, separated by age group, spend on the covered online service;

21 (d) An accounting of the total number and types of reports made
22 pursuant to section 8 of this act and an assessment of how such harms
23 were addressed;

24 (e) Whether, how, and for what purpose the covered online service
25 collects or processes the personal data of minors;

26 (f) Whether, how, and for what purpose the covered online service
27 collects or processes the sensitive personal data of minors;

28 (g) The design safety features for minors, the privacy protections
29 for minors, and the tools for parents that the covered online service has
30 adopted;

31 (h) Whether and how the covered online service uses covered design

1 features;

2 (i) The covered online service's process for handling data access,
3 deletion, and correction requests for the data of a minor;

4 (j) Age verification or estimation methods used by the covered
5 online service; and

6 (k) Whether and how the covered online service utilizes algorithms.

7 (2) An independent third-party auditor that prepares a report
8 required pursuant to this section shall follow inspection and
9 consultation practices designed to ensure that such report is
10 comprehensive and accurate. Any such report shall be prepared in
11 consultation with experts on minors' use of covered online services.

12 (3) A covered online service shall provide an independent third-
13 party auditor that prepares a report required under this section full and
14 complete cooperation and access to information and operations required to
15 ensure that the report is comprehensive and accurate.

16 **Sec. 12.** (1) The Attorney General shall enforce the Age-Appropriate
17 Online Design Code Act and may investigate compliance with the act. The
18 Attorney General may adopt and promulgate rules and regulations to carry
19 out the act.

20 (2) Each covered online service shall designate one or more officers
21 of the company as responsible for the covered online service's compliance
22 with the Age-Appropriate Online Design Code Act.

23 (3) A covered online service in violation of the Age-Appropriate
24 Online Design Code Act may be liable for a civil penalty not to exceed
25 fifty thousand dollars for each violation.

26 **Sec. 13.** This act becomes operative on January 1, 2026.

27 **Sec. 14.** If any section in this act or any part of any section is
28 declared invalid or unconstitutional, the declaration shall not affect
29 the validity or constitutionality of the remaining portions.