LEGISLATURE OF NEBRASKA

ONE HUNDRED NINTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 504

FINAL READING

Introduced by Bosn, 25; at the request of the Governor; Ballard, 21; Bostar, 29; Prokop, 27.

Read first time January 21, 2025

Committee: Banking, Commerce and Insurance

1   A BILL FOR AN ACT relating to consumer protections; to adopt the Age-

2   Appropriate Online Design Code Act; to provide an operative date;

3   and to provide severability.

4   Be it enacted by the people of the State of Nebraska,

1   **Section 1.** Sections 1 to 9 of this act shall be known and may be

2   cited as the Age-Appropriate Online Design Code Act.

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

4   (1) Actual knowledge includes all information and inferences known

5   to the covered online service relating to the age of the individual,

6   including, but not limited to, self-identified age, and any age the

7   covered online service has attributed or associated with the individual

8   for any purpose, including marketing, advertising, or product

9   development. If a covered online service's classification of an

10   individual for purposes of marketing or advertising is inconsistent with

11   the individual's self-identified age, a covered online service shall

12   disregard self-identified age for purposes of the act;

13   (2) Child means an individual younger than thirteen years of age;

14   (3) Covered design feature means any feature or component of a

15   covered online service that will encourage or increase the frequency,

16   time spent, or activity of a user on the covered online service and

17   includes:

18   (a) Infinite scroll;

19   (b) Rewards or incentives for frequency of visits or time spent on

20   the covered online service;

21   (c) Notifications or push alerts;

22   (d) In-game purchases; or

23   (e) Appearance-altering filters;

24   (4) Covered minor means a user that a covered online service knows

25   to be a minor;

26   (5)(a) Covered online service means a sole proprietorship, a limited

27   liability company, a corporation, an association, or any other legal

28   entity that owns, operates, controls, or provides an online service that:

29   (i) Conducts business in this state;

30   (ii) Alone, or jointly with its affiliates, subsidiaries, or parent

31   companies, determines the purposes and means of the processing of

1   consumers' personal data;

2   (iii) Has annual gross revenue in excess of twenty-five million

3   dollars, adjusted every odd-numbered year to reflect changes in the

4   Consumer Price Index for All Urban Consumers published by the Federal

5   Bureau of Labor Statistics for the two-year period preceding the

6   adjustment date. The amount shall be rounded to the next highest one-

7   thousand-dollar amount;

8   (iv) Annually buys, receives, sells, or shares the personal data of

9   fifty thousand or more consumers, households, or devices, alone or in

10 combination with its affiliates, subsidiaries, or parent companies; and

11   (v) Derives at least fifty percent of its annual revenue from the

12 sale or sharing of consumers' personal data.

13   (b) A covered online service includes:

14   (i) An entity that controls or is controlled by a business that

15 meets the definition of covered online service if the entity and business

16 share a name, service mark, or trademark that would cause a reasonable

17 consumer to understand that the entity and business are commonly owned;

18 and

19   (ii) For a covered online service that is a joint venture or

20 partnership, any person with an ownership interest of forty percent or

21 more in such venture or partnership.

22   (c) A covered online service does not include an online service with

23 actual knowledge that fewer than two percent of its users are minors,

24 provided that, in making such assessment, an online service shall not be

25 required to collect personal data of users, and if an online service

26 collects personal data of users for such purpose, it shall not use such

27 personal data for other purposes and shall delete such personal data

28 after using it to make the assessment;

29   (6) Dark pattern means a user interface designed or manipulated with

30 the effect of substantially subverting or impairing user autonomy,

31 decision-making, or choice. Dark pattern includes any practice determined

1 to be a dark pattern by the Federal Trade Commission as of January 1,

2 2024;

3   (7) Knows to be a child or knows to be a minor means actual

4 knowledge that the user is a child or minor, as applicable;

5   (8) Minor means an individual younger than eighteen years of age;

6   (9) Online service means any service, product, or feature that is

7 accessible to the public via the Internet, including a website or

8 application. An online service does not include any of the following:

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

10   (b) A broadband Internet access service as defined in 47 C.F.R.

11 8.1(b); or

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

13   (10) Parent has the same meaning as in the federal Children's Online

14 Privacy Protection Act of 1998, 15 U.S.C. 6501 et seq., and the Federal

15 Trade Commission rules implementing such act;

16   (11) Personal data means any information, including derived data and

17 unique identifiers, that is linked or reasonably linkable, alone or in

18 combination with other information, to an identified or identifiable

19 individual or to a device that identifies, is linked to, or is reasonably

20 linkable to one or more identified or identifiable individuals in a

21 household. Personal data does not include publicly available data;

22   (12) Personalized recommendation system means a fully or partially

23 automated system used to suggest, promote, or rank content, including

24 other users, hashtags, or posts, based on the personal data of users;

25   (13) Precise geolocation information means any data that identifies

26 within a radius of one thousand seven hundred fifty feet a covered

27 minor's present or past location or the present or past location of a

28 device that links or is linkable to a covered minor or any data that is

29 derived from a device that is used or intended to be used to locate a

30 covered minor within a radius of one thousand seven hundred fifty feet by

31 means of technology that includes a global positioning system that

1   provides latitude and longitude coordinates. Precise geolocation

2   information does not include the content of communications or any data

3   generated or connected to advanced utility metering infrastructure

4   systems or equipment for use by a utility;

5   (14) Process means to perform an operation or set of operations by

6   manual or automated means on personal data. Process includes collecting,

7   using, storing, disclosing, sharing, analyzing, deleting, or modifying

8   personal data;

9   (15) Profile means any form of automated processing of personal data

10   to evaluate, analyze, or predict certain aspects relating to a covered

11   minor, including a covered minor's economic situation, health, personal

12   preferences, interests, reliability, behavior, location, or movements;

13   (16) Publicly available data means data (a) that is lawfully made

14   available from federal, state, or local government records, (b) that a

15   business has a reasonable basis to believe is lawfully made available to

16   the general public by the individual or from widely distributed media, or

17   (c) that is made available by a person to whom the individual has

18   disclosed the data if the individual has not restricted the data to a

19   specific audience. Publicly available data does not mean biometric data

20   collected by a covered online service about a covered minor without the

21   covered minor's knowledge;

22   (17) Targeted advertising means displaying advertisements to an

23   individual when the advertisement is selected based on personal data

24   obtained or inferred from that individual's activities over time and

25   across nonaffiliated websites or online applications to predict the

26   individual's preferences or interest. Targeted advertising does not

27   include:

28   (a) Advertisements based on activities within a covered online

29   service's own Internet websites or online applications;

30   (b) Advertisements based on the context of an individual's current

31   search query, visit to an Internet website, or use of an online

1 application;

2   (c) Advertisements directed to an individual in response to the

3 individual's request for information or feedback; or

4   (d) Processing personal data solely to measure or report advertising

5 frequency, performance, or reach; and

6   (18) User means, with respect to a covered online service, an

7 individual who registers an account or creates a profile on the covered

8 online service.

9   **Sec. 3.** (1) The Age-Appropriate Online Design Code Act does not

10 apply to:

11   (a) A federal, state, tribal, or local government entity in the

12 ordinary course of its operations;

13   (b) Personal data subject to a statute or regulation that is

14 controlled by a covered online service that is required to comply with:

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

16   (ii) The federal Health Information Technology for Economic and

17 Clinical Health Act; or

18   (iii) Regulations promulgated under section 264 of the federal

19 Health Insurance Portability and Accountability Act of 1996; and

20   (c) Information, including, but not limited to, personal data,

21 collected as part of a clinical trial subject to the federal policy for

22 the protection of human subjects in accordance with:

23   (i) Good clinical practice guidelines issued by the International

24 Council for Harmonisation of Technical Requirements for Pharmaceuticals

25 for Human Use; or

26   (ii) Human subject protection requirements of the federal Food and

27 Drug Administration.

28   (2) The requirements of the Age-Appropriate Online Design Code Act

29 are in addition to and shall not limit or restrict in any way the

30 application of other laws, including, but not limited to, statutes, rules

31 and regulations, and the common law of Nebraska.

1   (3) In the event of a conflict between the Age-Appropriate Online

2 Design Code Act and one or more other laws, the law that affords the

3 greatest protection from harm to minors shall control.

4   **Sec. 4.** (1) A covered online service shall provide each covered

5 minor with accessible and easy-to-use tools that accomplish the following

6 with respect to covered design features:

7   (a) Limit the ability of other users or visitors to communicate with

8 the covered minor;

9   (b) Prevent other individuals from viewing the personal data of the

10 covered minor;

11   (c) Control the operation of all design features, including, but not

12 limited to, all covered design features, that are unnecessary in order to

13 provide the covered online service by allowing a covered minor to opt out

14 of the use of all unnecessary covered design features or categories of

15 unnecessary covered design features;

16   (d) Control personalized recommendation systems by allowing a

17 covered minor to opt in to a chronological feed or by preventing

18 categories of content from being recommended;

19   (e) Control the use of in-game purchases or other transactions by

20 allowing a covered minor to opt out of all such purchases and

21 transactions or to place limits on such purchases and transactions; and

22   (f) Restrict the sharing of the precise geolocation information of

23 the covered minor and provide notice regarding tracking of the covered

24 minor's precise geolocation information.

25   (2) A covered online service shall provide a covered minor with

26 accessible and easy-to-use options to limit the amount of time the

27 covered minor spends on the covered online service.

28   (3) A covered online service shall establish default settings for

29 the safeguards required by subsection (1) of this section at the option

30 or level that provides the highest protection available for the safety of

31 the covered minor.

1   **Sec. 5.** (1) A covered online service shall only collect and use the

2   minimum amount of a covered minor's personal data necessary to provide

3   the specific elements of an online service with which the covered minor

4   has knowingly engaged. Such personal data shall not be used for reasons

5   other than those for which it was collected.

6   (2) A covered online service shall not be required to collect the

7   personal data of a user to comply with the Age-Appropriate Online Design

8   Code Act. A covered online service that collects personal data of a user

9   for age verification cannot use such personal data for other purposes and

10 shall delete such personal data after use for age verification.

11   (3) A covered online service shall only retain the personal data of

12 a covered minor as long as necessary to provide the specific elements of

13 an online service with which the covered minor has knowingly engaged.

14   (4) A covered online service shall not facilitate targeted

15 advertising to a covered minor.

16   (5) A covered online service shall provide an obvious sign to a

17 covered minor when precise geolocation information is being collected or

18 used.

19   (6) The use of notifications and push alerts to a covered minor is

20 prohibited between the hours of 10 p.m. and 6 a.m. and between the hours

21 of 8 a.m. and 4 p.m. on week days during the school year in the covered

22 minor's local time zone.

23   (7) A covered online service shall not profile a covered minor

24 unless profiling is necessary to provide a covered online service

25 requested by such covered minor, and only with respect to the aspects of

26 the covered online service with which the covered minor is actively and

27 knowingly engaged.

28   (8) A covered online service shall ensure that the default settings

29 for the protections required pursuant to this section are set at the

30 highest protection available for the safety of the covered minor.

31   (9) If a covered online service allows parental monitoring, the

1 covered online service shall provide an obvious signal to a covered minor

2 when such minor is being monitored.

3   **Sec. 6.** (1) A covered online service shall provide parents with

4 tools to help parents protect and support minors using covered design

5 features of the covered online service. Such parental tools shall be

6 enabled by default for an individual the covered online service knows to

7 be a child.

8   (2) With respect to covered design features, a covered online

9 service shall provide parents the ability to do the following for an

10 individual the covered online service knows to be a child or minor, as

11 applicable:

12   (a) Manage the child's privacy and account settings in a manner that

13 allows parents to:

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

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

16   (b) Restrict purchases and financial transactions of the minor; and

17   (c) Enable parents to view the total time the child has spent on a

18 covered online service and place reasonable limits on such child's use of

19 the covered online service. Among such protections, a covered online

20 service shall offer parents the ability to restrict a child's use of the

21 covered online service during times of day specified by the parents,

22 including during school hours and at night.

23   (3) A covered online service shall notify a covered minor of a

24 covered design feature when any of the tools described in this section

25 are in effect and describe what settings have been applied.

26   **Sec. 7.** A covered online service shall establish mechanisms for

27 covered minors and parents to report harms on covered online services.

28   **Sec. 8.** (1) A covered online service is prohibited from

29 facilitating advertisements for prohibited products, such as narcotic

30 drugs, tobacco products, gambling, and alcohol, to covered minors.

31   (2) A covered online service is prohibited from using dark patterns

1 to subvert or impair covered minor autonomy, decision-making, or choice.

2 **Sec. 9.** (1) Any violation of the Age-Appropriate Online Design Code

3 Act shall, additionally and separately, constitute a deceptive trade

4 practice under the Uniform Deceptive Trade Practices Act. Civil penalties

5 for violations of the Age-Appropriate Online Design Code Act shall be

6 subject exclusively to subsection (3) of this section, but the Attorney

7 General shall not initiate any action to recover a civil penalty under

8 the act until July 1, 2026. The Age-Appropriate Online Design Code Act

9 shall not be construed to affect the liability for any action that

10 otherwise violates the Uniform Deceptive Trade Practices Act.

11 (2) Each covered online service shall designate one or more of its

12 officers to be responsible for the covered online service's compliance

13 with the Age-Appropriate Online Design Code Act.

14 (3) Beginning July 1, 2026, a covered online service in violation of

15 the Age-Appropriate Online Design Code Act may be liable for a civil

16 penalty not to exceed fifty thousand dollars for each violation. All

17 penalties collected under this section shall be remitted to the State

18 Treasurer for distribution in accordance with Article VII, section 5, of

19 the Constitution of Nebraska.

20 **Sec. 10.** This act becomes operative on January 1, 2026.

21 **Sec. 11.** If any section in this act or any part of any section is

22 declared invalid or unconstitutional, the declaration shall not affect

23 the validity or constitutionality of the remaining portions.