

By: Slawson

H.B. No. 18

A BILL TO BE ENTITLED

AN ACT

relating to the protection of minors from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 11, Business & Commerce Code, is amended by adding Chapter 509 to read as follows:

CHAPTER 509. COLLECTION OR USE OF MINORS' PERSONAL IDENTIFYING INFORMATION BY DIGITAL SERVICE PROVIDERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 509.001. DEFINITIONS. In this chapter:

(1) "Digital service" means a website, an application, a program, or software that performs collection or processing functions with Internet connectivity.

(2) "Digital service provider" means a person who owns or operates a digital service.

(3) "Minor" means a child who is at least 13 years of age but younger than 18 years of age.

(4) "Personal identifying information" means any information linked or reasonably linked to a specific minor, including:

(A) a name, account name, alias, or online identifier;

(B) a home or other physical address;

- 1                    (C) an Internet Protocol (IP) address or e-mail  
2 address;
- 3                    (D) a social security number;
- 4                    (E) a telephone number;
- 5                    (F) a driver's license number or state  
6 identification card number;
- 7                    (G) a passport number;
- 8                    (H) physical characteristics or description;
- 9                    (I) race, ethnicity, or national origin;
- 10                   (J) religion or faith;
- 11                   (K) sex, gender, or sexual orientation;
- 12                   (L) family status;
- 13                   (M) disability status;
- 14                   (N) political affiliation;
- 15                   (O) commercial information, including:
- 16                         (i) records relating to personal property;
- 17                         (ii) products or services the minor  
18 purchased, obtained, or considered; or
- 19                         (iii) other histories, interests, or  
20 tendencies in consumption;
- 21                    (P) biometric information;
- 22                    (Q) device identifiers, online identifiers,  
23 persistent identifiers, or digital fingerprinting information;
- 24                    (R) Internet, browsing, or search history,  
25 including any information relating to a minor's use of an Internet  
26 website;
- 27                    (S) geolocation information;

1           (T) audio, electronic, visual, thermal,  
2 olfactory, or similar information, including facial recognition;

3           (U) educational information;

4           (V) health information;

5           (W) the contents of, attachments to, and parties  
6 to text messages, e-mails, voicemails, audio conversations, and  
7 video conversations;

8           (X) financial information, including:

9                   (i) bank account numbers;

10                   (ii) credit card numbers;

11                   (iii) debit card numbers;

12                   (iv) insurance policy numbers; or

13                   (v) information related to the balance of  
14 any financial accounts; or

15           (Y) any inferences drawn from personal  
16 identifying information that might identify a minor's traits,  
17 characteristics, or trends.

18           Sec. 509.002. APPLICABILITY. (a) This chapter applies to a  
19 digital service provider that:

20                   (1) collects or processes the personal identifying  
21 information of minors; and

22                   (2) either:

23                           (A) targets minors; or

24                           (B) knows or should know that the digital service  
25 appeals to minors.

26           (b) For purposes of Subsection (a):

27                   (1) a digital service targets or appeals to minors if:

1           (A) the digital service contains subject matter  
2 that is tailored toward minors, including:

3                   (i) animated characters;  
4                   (ii) instruction or activities intended for  
5 minors;

6                   (iii) music or audio popular among minors;  
7                   (iv) images containing:

8                           (a) models who are minors; or  
9                           (b) celebrities who are minors or who  
10 are popular among minors;

11                   (v) colloquial use of language that is  
12 common among minors; or

13                   (vi) advertisements intended for minors; or

14           (B) empirical evidence obtained by the digital  
15 service provider, an advertiser, the press, third-party  
16 complaints, or another entity that conducts privacy and security  
17 impact assessments demonstrates that:

18                   (i) many users of the digital service are  
19 minors; or

20                   (ii) the intended audience for the digital  
21 service is minors; and

22           (2) a digital service does not target or appeal to  
23 minors by referring or linking to a digital service that targets or  
24 appeals to minors.

25       SUBCHAPTER B. DIGITAL SERVICE PROVIDER DUTIES AND PROHIBITIONS

26           Sec. 509.051. DIGITAL SERVICE PROVIDER DUTY TO PREVENT  
27 HARM. (a) A digital service provider shall prevent physical,

1 emotional, and developmental harm to a minor using a digital  
2 service, including:

3 (1) self harm, suicide, eating disorders, and other  
4 similar behaviors;

5 (2) substance abuse and patterns of use that indicate  
6 addiction;

7 (3) bullying and harassment;

8 (4) sexual exploitation, including enticement,  
9 grooming, trafficking, abuse, and child pornography;

10 (5) advertisements for products or services that are  
11 unlawful for a minor, including illegal drugs, tobacco, gambling,  
12 pornography, and alcohol; and

13 (6) predatory, unfair, or deceptive marketing  
14 practices.

15 (b) A digital service provider shall ensure that a minor is  
16 not exposed to a type of harm described by Subsection (a).

17 Sec. 509.052. PROHIBITION ON COLLECTION OF PERSONAL  
18 IDENTIFYING INFORMATION; EXEMPTIONS. (a) Except as provided by this  
19 section, a digital service provider may not collect a minor's  
20 personal identifying information.

21 (b) A digital service provider may collect a minor's  
22 personal identifying information for employment purposes.

23 (c) A digital service provider may collect a minor's  
24 personal identifying information if the minor's parent or guardian  
25 consents in a manner that:

26 (1) is specific, informed, and unambiguous;

27 (2) takes into account:

- 1                   (A) the minor's age; and  
2                   (B) the minor's developmental and cognitive  
3 needs and capabilities;  
4                   (3) is for only a single specific act of collection or  
5 processing of personal identifying information;  
6                   (4) occurs in the absence of any financial or other  
7 incentive;  
8                   (5) occurs before the collection or processing of the  
9 minor's personal identifying information;  
10                   (6) occurs in a time, place, and manner that the  
11 minor's parent or guardian would expect the consent to be sought;  
12 and  
13                   (7) is not deceptive or coercive.  
14           (d) A digital service provider may collect a minor's  
15 personal identifying information without the consent of the minor's  
16 parent or guardian if:  
17                   (1) the personal identifying information is a form of  
18 online contact information that:  
19                   (A) is used to respond to a single specific  
20 request made by the minor;  
21                   (B) is not used to contact the minor in any other  
22 way; and  
23                   (C) is not retained by the digital service  
24 provider once a response has been made;  
25                   (2) the personal identifying information is for the  
26 purpose of receiving consent under Subsection (c) and is not  
27 retained by the digital service provider after:

1           (A) the minor's parent or guardian gives consent  
2 under Subsection (c); or

3           (B) eight hours after the personal identifying  
4 information is collected; or

5           (3) the personal identifying information is necessary  
6 to respond to judicial process or comply with a law enforcement  
7 agency on a matter related to public safety.

8           (e) A digital service provider that collects a minor's  
9 personal identifying information with the consent of the minor's  
10 parent or guardian shall set the minor's digital service to the  
11 strongest settings available to protect the minor from harm, as  
12 described by Section 509.051(a).

13           Sec. 509.053. PARENTAL TOOLS. (a) A digital service  
14 provider shall make available to each parent or guardian who gives  
15 consent under Section 509.052 parental tools to allow the parent or  
16 guardian to supervise the minor's use of the digital service.

17           (b) Parental tools under this section must allow a parent or  
18 guardian to:

19           (1) control the minor's privacy and account settings,  
20 including the settings described by Section 509.052(e);

21           (2) restrict the ability of a minor to make purchases  
22 and financial transactions;

23           (3) monitor the amount of time the minor spends using  
24 the digital service; and

25           (4) disable any default parental controls placed on  
26 the digital service.

27           Sec. 509.054. ACCESS TO PERSONAL IDENTIFYING INFORMATION.

1 (a) A minor or minor's parent or guardian may submit a request to a  
2 digital service provider to access the minor's personal identifying  
3 information.

4 (b) A digital service provider shall establish and make  
5 available a simple and easily accessible method by which a minor or  
6 a minor's parent or guardian may make a request for information  
7 under this section.

8 (c) The method established under Subsection (b) must allow a  
9 minor or minor's parent or guardian to access:

10 (1) all of the minor's personal identifying  
11 information in the digital service provider's possession that the  
12 provider has collected or processed, organized by:

13 (A) type of personal identifying information;  
14 and

15 (B) purpose for which the digital service  
16 provider processed each type of personal identifying information;

17 (2) the name of each third party to which the digital  
18 service provider disclosed the personal identifying information,  
19 if applicable;

20 (3) each source other than the minor from which the  
21 digital service provider obtained the minor's personal identifying  
22 information;

23 (4) the length of time for which the digital service  
24 provider will retain the minor's personal identifying information;

25 (5) any index or score assigned to the minor as a  
26 result of the personal identifying information, including whether  
27 the digital service provider created the index or score and, if not,



1 who created the index or score;

2 (6) the manner in which the digital service provider  
3 uses an index or score under Subdivision (5);

4 (7) a method by which a minor or minor's parent or  
5 guardian may:

6 (A) dispute the accuracy of any personal  
7 identifying information collected or processed by the digital  
8 service provider; and

9 (B) request that the digital service provider  
10 correct any personal identifying information collected or  
11 processed by the digital service provider; and

12 (8) a method by which a minor or minor's parent or  
13 guardian may request that the digital service provider delete any  
14 personal identifying information collected or processed by the  
15 digital service provider.

16 (d) If a digital service provider receives a request under  
17 Subsection (c)(7), the digital service provider shall, not later  
18 than the 45th day after the request is made:

19 (1) determine whether the relevant personal  
20 identifying information is inaccurate or incomplete; and

21 (2) make any corrections necessary.

22 (e) If a digital service provider receives a request under  
23 Subsection (c)(8), the digital service provider shall delete the  
24 personal identifying information specified by the request not later  
25 than the 45th day after the request is made.

26 Sec. 509.055. ADVERTISING AND MARKETING DUTIES. A digital  
27 service provider that allows advertisers to advertise to minors on

1 the digital service shall disclose in a clear and accessible  
2 manner:

3 (1) the name of each product, service, or brand  
4 advertising on the digital service;

5 (2) the subject matter of each advertisement or  
6 marketing material on the digital service;

7 (3) if the digital service provider or advertiser  
8 targets advertisements to minors on the digital service, the reason  
9 why each advertisement has been targeted to a minor;

10 (4) the way in which a minor's personal identifying  
11 information leads to each advertisement targeted to the minor; and

12 (5) whether certain media on the digital service are  
13 advertisements.

14 Sec. 509.056. USE OF ALGORITHMS. A digital service provider  
15 that uses algorithms to automate the suggestion, promotion, or  
16 ranking of information to minors on the digital service shall:

17 (1) ensure that the algorithm does not interfere with  
18 the digital service provider's duties under Section 509.051; and

19 (2) disclose in the digital service provider's terms  
20 of service, in a clear and accessible manner:

21 (A) an overview of the manner in which the  
22 digital service uses algorithms to provide information to minors;

23 (B) an overview of the manner in which those  
24 algorithms use the personal identifying information of minors;

25 (C) options available to a minor and a minor's  
26 parent or guardian to modify the results of information provided by  
27 the algorithm, including the ability to opt out of or down-rank

1 certain information; and

2 (D) the ability minors have to opt out of using  
3 the algorithm.

4 Sec. 509.057. PROHIBITION ON LIMITING OR DISCONTINUING  
5 DIGITAL SERVICE. A digital service provider may not limit or  
6 discontinue a digital service provided to a minor because the minor  
7 or minor's parent or guardian withholds or withdraws consent to the  
8 collection or processing of any personal identifying information  
9 not required to provide the digital service.

10 SUBCHAPTER C. ENFORCEMENT

11 Sec. 509.101. CIVIL ACTION; LIABILITY. (a) A minor's parent  
12 or guardian may bring an action against a digital service provider  
13 for a violation of this chapter.

14 (b) Notwithstanding Sections 41.003 and 41.004, Civil  
15 Practice and Remedies Code, a parent or guardian who prevails in an  
16 action under this section is entitled to receive:

- 17 (1) injunctive relief;
- 18 (2) actual damages;
- 19 (3) punitive damages;
- 20 (4) reasonable attorney's fees;
- 21 (5) court costs; and
- 22 (6) any other relief the court deems appropriate.

23 (c) A violation of this chapter constitutes an injury in  
24 fact to the minor.

25 Sec. 509.102. DECEPTIVE TRADE PRACTICE. A violation of this  
26 chapter is a false, misleading, or deceptive act or practice as  
27 defined by Section 17.46(b). In addition to any remedy under this

1 chapter, a remedy under Subchapter E, Chapter 17, is also available  
2 for a violation of this chapter.

3 SECTION 2. This Act takes effect September 1, 2024.