

By: Fairly

H.B. No. 4901

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of platforms for the sale and distribution of software applications for mobile devices.

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

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 121 to read as follows:

CHAPTER 121. SOFTWARE APPLICATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 121.001. DEFINITIONS. In this chapter:

(1) "Age category" means information collected by the owner of an app store to designate a user based on the age categories described by Section 121.021(b).

(2) "App store" means a publicly available Internet website, software application, or other electronic service that distributes software applications from the owner or developer of a software application to the user of a mobile device.

(3) "Minor" means a child who is younger than 18 years of age who has not had the disabilities of minority removed for general purposes.

(4) "Mobile device" means a portable, wireless electronic device, including a tablet or smartphone, capable of transmitting, receiving, processing, and storing information wirelessly that runs an operating system designed to manage hardware resources and perform common services for software

applications on handheld electronic devices.

(5) "Personal data" means any information, including sensitive data, that is linked or reasonably linkable to an identified or identifiable individual. The term includes pseudonymous data when the data is used by a person who processes or determines the purpose and means of processing the data in conjunction with additional information that reasonably links the data to an identified or identifiable individual. The term does not include deidentified data or publicly available information.

SUBCHAPTER B. DUTIES OF APP STORES

Sec. 121.021. DUTY TO VERIFY AGE OF USER; AGE CATEGORIES.

(a) When an individual in this state creates an account with an app store, the owner of the app store shall:

- (1) request the individual's age;
- (2) use a commercially reasonable method of verification to verify the individual's age; and
- (3) assign to the individual a designation described by Subsection (b).

(b) The owner of an app store shall use the following age categories for assigning a designation:

- (1) an individual who is younger than 13 years of age is considered a "child";
- (2) an individual who is at least 13 years of age but younger than 16 years of age is considered a "younger teenager";
- (3) an individual who is at least 16 years of age but younger than 18 years of age is considered an "older teenager"; and
- (4) an individual who is at least 18 years of age is

1 considered an "adult."

2 Sec. 121.022. PARENTAL CONSENT REQUIRED. (a) If the owner
3 of the app store determines under Section 121.021 that an
4 individual is a minor, the owner shall require that the minor's
5 account be affiliated with the account of an individual determined
6 to be:

7 (1) at least 18 years of age; and

8 (2) the minor's parent or guardian.

9 (b) The owner of an app store must obtain consent from the
10 minor's parent or guardian before allowing the minor to:

11 (1) download a software application;

12 (2) purchase a software application; or

13 (3) make a purchase in or using a software
14 application.

15 (c) The owner of an app store must obtain consent for each
16 individual download or purchase sought by the minor.

17 (d) To obtain consent from a minor's parent or guardian
18 under Subsection (b), the owner of an app store may use any
19 reasonable means to:

20 (1) disclose to the parent or guardian:

21 (A) the specific software application or
22 purchase for which consent is sought;

23 (B) the rating under Section 121.052 assigned to
24 the software application or purchase;

25 (C) the specific content or other elements that
26 led to the rating assigned under Section 121.052;

27 (D) the nature of any collection, use, or

distribution of personal data that would occur because of the software application or purchase; and

(E) any measures taken by the developer of the software application or purchase to protect the personal data of users;

(2) give the parent or guardian a clear choice to give or withhold consent for the download or purchase; and

(3) ensure that the consent is given:

(A) by the parent or guardian; and

(B) through the account affiliated with a minor's account under Subsection (a).

(e) If a software developer provides the owner of an app store with notice of a change under Section 121.053, the owner of the app store shall:

(1) notify any individual who has given consent under this section for a minor's use or purchase relating to a previous version of the changed software application; and

(2) obtain consent from the individual for the minor's continued use or purchase of the software application.

Sec. 121.023. DISPLAY OF AGE RATING FOR SOFTWARE APPLICATION. (a) The owner of an app store that operates in this state shall display for each software application available for download and purchase on the app store:

(1) the rating under Section 121.052 assigned to the software application; and

(2) the specific content or other elements that led to the rating assigned under Section 121.052.

1 (b) The information displayed under this section must be
2 clear, accurate, and conspicuous.

3 Sec. 121.024. INFORMATION FOR SOFTWARE APPLICATION
4 DEVELOPERS. The owner of an app store that operates in this state
5 shall, using a commercially available method, allow the developer
6 of a software application to access current information related to:

7 (1) the age category assigned to each user under
8 Section 121.021(b); and

9 (2) whether consent has been obtained for each minor
10 user under Section 121.022.

11 Sec. 121.025. PROTECTION OF PERSONAL DATA. The owner of an
12 app store that operates in this state shall protect the personal
13 data of users by:

14 (1) limiting the collection and processing of personal
15 data to the minimum amount necessary for:

16 (A) verifying the age of an individual;

17 (B) obtaining consent under Section 121.022; and

18 (C) maintaining compliance records;

19 (2) transmitting personal data using
20 industry-standard encryption protocols that ensure data integrity
21 and confidentiality; and

22 (3) deleting personal data obtained for purposes of
23 Sections 121.021 and 121.022 once a user's age is verified and, if
24 applicable, consent has been obtained.

25 Sec. 121.026. VIOLATION. The owner of an app store that
26 operates in this state violates this subchapter if the owner:

27 (1) enforces a contract or a provision of a terms of

service agreement against a minor that the minor entered into or
agreed to without consent under Section 121.022;

(2) knowingly misrepresents information disclosed
under Section 121.022(d)(1);

(3) obtains a blanket consent to authorize multiple
downloads or purchases; or

(4) shares or discloses personal data obtained for
purposes of Section 121.021, except as required by Section 121.024
or other law.

Sec. 121.027. CONSTRUCTION OF SUBCHAPTER. Nothing in this
subchapter may be construed to:

(1) prevent the owner of an app store that operates in
this state from taking reasonable measures to block, detect, or
prevent the distribution of:

(A) obscene material, as that term is defined by
Section 43.21, Penal Code; or

(B) other material that may be harmful to minors;

(2) require the owner of an app store that operates in
this state to disclose a user's personal data to the developer of a
software application except as provided by this subchapter;

(3) allow the owner of an app store that operates in
this state to use a measure required by this chapter in a manner
that is arbitrary, capricious, anticompetitive, or unlawful;

(4) block or filter spam;

(5) prevent criminal activity; or

(6) protect the security of an app store or software
application.

SUBCHAPTER C. DUTIES OF SOFTWARE APPLICATION DEVELOPERS

Sec. 121.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the developer of a software application that the developer makes available to users in this state through an app store.

Sec. 121.052. DESIGNATION OF AGE RATING. (a) The developer of a software application shall assign to each software application and to each purchase that can be made through the software application an age rating based on the age categories described by Section 121.021(b).

(b) The developer of a software application shall provide to each app store through which the developer makes the software application available:

- (1) each rating assigned under Subsection (a); and
- (2) the specific content or other elements that led to each rating provided under Subdivision (1).

Sec. 121.053. CHANGES TO SOFTWARE APPLICATIONS. The developer of a software application shall provide notice to each app store through which the developer makes the software application available before making any change to the terms of service or privacy policy of the software application that:

- (1) changes the type or category of personal data collected, stored, or shared by the developer;
- (2) affects or changes the rating assigned to the software application under Section 121.052 or the content or elements that led to that rating;
- (3) adds new monetization features to the software

application, including:

(A) new opportunities to make a purchase in or using the software application; or

(B) new advertisements in the software application; or

(4) materially changes the functionality or user experience of the software application.

Sec. 121.054. AGE VERIFICATION. (a) The developer of a software application shall create and implement a system to verify:

(1) for each user of the software application, the age category assigned to that user under Section 121.021(b); and

(2) for each minor user of the software application, whether consent has been obtained under Section 121.022.

(b) The developer of a software application shall use information provided by the owner of an app store under Section 121.024 to perform the verification required by this section.

Sec. 121.055. USE OF PERSONAL DATA. (a) The developer of a software application may use personal data provided to the developer under Section 121.024 only to:

(1) enforce restrictions and protections on the software application related to age;

(2) ensure compliance with applicable laws and regulations; and

(3) implement safety-related features and default settings.

(b) The developer of a software application shall delete personal data provided by the owner of an app store under Section

121.024 on completion of the verification required by Section 121.054.

Sec. 121.056. VIOLATION. The developer of a software application violates this subchapter if the developer:

(1) enforces a contract or a provision of a terms of service agreement against a minor that the minor entered into or agreed to without consent under Section 121.054;

(2) knowingly misrepresents an age rating or reason for that rating under Section 121.052; or

(3) shares or discloses the personal data of a user that was acquired under this subchapter.

SUBCHAPTER D. ENFORCEMENT

Sec. 121.101. CIVIL ACTION; LIABILITY. (a) The parent or guardian of a minor may bring an action against the owner of an app store or the developer of a software application for a violation of this chapter.

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

(1) injunctive relief;

(2) actual damages;

(3) punitive damages;

(4) reasonable attorney's fees;

(5) court costs; and

(6) any other relief the court considers appropriate.

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

1 Sec. 121.102. DECEPTIVE TRADE PRACTICE. A violation of
2 this chapter is a false, misleading, or deceptive act or practice as
3 defined by Section 17.46(b). In addition to any remedy under this
4 chapter, a remedy under Subchapter E, Chapter 17, is also available
5 for a violation of this chapter.

6 SECTION 2. This Act takes effect September 1, 2025.