

118TH CONGRESS
2D SESSION

S. _____

To provide a private right of action regarding children’s exposure to covered content on apps, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide a private right of action regarding children’s exposure to covered content on apps, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “App Store Accountability Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Sense of Congress.
- Sec. 3. Definitions.
- Sec. 4. Private right of action.
- Sec. 5. Safe harbor for covered app store providers.
- Sec. 6. Severability.
- Sec. 7. Effective date.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) parents and legal guardians have the right
4 to seek a remedy when their child is exposed to an
5 app that contains covered content;

6 (2) app stores should provide parents and legal
7 guardians with effective tools to protect children
8 from covered content on apps, including age
9 verification technology, parental oversight and con-
10 sent features, and accurate app age ratings; and

11 (3) any tool described in paragraph (2) is not
12 effective if the tool—

13 (A) does not empower parents or legal
14 guardians to protect their child from covered
15 content;

16 (B) is not readily accessible to parents or
17 legal guardians; or

18 (C) is grossly negligent to loopholes that
19 undermine parents' or legal guardians' ability
20 to protect their child.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) **AGE CATEGORY.**—The term “age category”
24 means the category of an individual based on their
25 age, including the following categories:

1 (A) ADULT.—An “adult” is such an indi-
2 vidual who has attained 18 years of age.

3 (B) TEENAGER.—A “teenager” is such an
4 individual who has attained 16 years of age but
5 has not attained 18 years of age.

6 (C) CHILD.—A “child” is such an indi-
7 vidual who has attained 13 years of age but has
8 not attained 16 years of age.

9 (D) YOUNG CHILD.—A “young child” is
10 such an individual who has not attained 13
11 years of age.

12 (2) AGE RATING.—The term “age rating”
13 means a public display that indicates the appro-
14 priateness of an app for different age categories.

15 (3) APP.—The term “app” means a software
16 application or electronic service that may be run or
17 directed by a user on a computer, mobile device, or
18 any other general purpose computing device.

19 (4) APP STORE.—The term “app store” means
20 a publicly available website, software application, or
21 other electronic service that distributes and facili-
22 tates the download of an app from a third-party de-
23 veloper by a user of a computer, mobile device, or
24 any other general purpose computing device.

1 (5) COMMISSION.—The term “Commission”
2 means the Federal Trade Commission.

3 (6) COVERED APP STORE PROVIDER.—The
4 term “covered app store provider” means any person
5 that owns or controls an app store available in the
6 United States and for which users in the United
7 States exceed 5,000,000.

8 (7) COVERED CONTENT.—The term “covered
9 content” means—

10 (A) any picture, image, graphic image file,
11 film, videotape, or other visual depiction that—

12 (i) taken as a whole and with respect
13 to minors, appeals to a prurient interest in
14 nudity, sex, or excretion;

15 (ii) depicts, describes, or represents
16 an actual or simulated sexual act or sexual
17 contact, actual or simulated normal or per-
18 verted sexual acts, or a lewd exhibition of
19 the genitals, with the objective intent to
20 arouse, titillate, or gratify the sexual de-
21 sires of a person; and

22 (iii) taken as a whole, lacks serious
23 literary, artistic, political, or scientific
24 value as to minors;

1 (B) any graphic image or video of real or
2 simulated violence; or

3 (C) a social or messaging forum whereby a
4 user may interact directly or indirectly with
5 users that are minors.

6 (8) DEVELOPER.—The term “developer” means
7 any person that owns or controls an app on the app
8 store of a covered app store provider and available
9 in the United States.

10 (9) INJURY.—The term “injury” means a rea-
11 sonable, articulable harm that results from an expo-
12 sure to covered content.

13 (10) MINOR.—The term “minor” means an in-
14 dividual who has not attained 18 years of age.

15 (11) MOBILE DEVICE.—The term “mobile de-
16 vice” means a tablet or smart phone that is capable
17 of running a mobile operating system.

18 (12) MOBILE OPERATING SYSTEM.—The term
19 “mobile operating system” means a set of software
20 that manages mobile device hardware resources and
21 provides common services for mobile device pro-
22 grams.

23 (13) PARENT.—The term “parent”, with re-
24 spect to a minor, means an adult with the legal right

1 to make decisions on behalf of the minor, includ-
2 ing—

3 (A) a natural parent;

4 (B) an adoptive parent;

5 (C) a legal guardian; or

6 (D) an individual with legal custody over
7 the minor.

8 (14) SIGNAL.—The term “signal” means age
9 bracketed data sent by a real-time secure application
10 programming interface or operating system that is
11 likely to be accessed by minors.

12 (15) VERIFIABLE PARENTAL CONSENT.—The
13 term “verifiable parental consent” means authoriza-
14 tion that is provided—

15 (A) by a parent who a covered app store
16 provider has verified is an adult;

17 (B) in response to a disclosure from a cov-
18 ered app store provider that identifies what is
19 specifically being consented to, including the
20 age rating for the app or in-app purchase at
21 issue; and

22 (C) in response to a clear choice to consent
23 or to decline to consent to the request from the
24 covered app store provider.

1 **SEC. 4. PRIVATE RIGHT OF ACTION.**

2 (a) IN GENERAL.—Subject to section 5, any parent
3 of a minor alleging an injury to the minor as a result of
4 exposure to covered content on an app of a covered app
5 store may bring a civil action against the covered app store
6 provider in an appropriate district court of the United
7 States.

8 (b) RELIEF.—In a civil action brought under sub-
9 section (a) in which the plaintiff prevails, the court may
10 award—

11 (1) actual damages;

12 (2) punitive damages;

13 (3) reasonable attorney fees and litigation costs;

14 and

15 (4) any other relief, including equitable or de-
16 claratory relief, that the court determines appro-
17 priate.

18 **SEC. 5. SAFE HARBOR FOR COVERED APP STORE PRO-**
19 **VIDERS.**

20 (a) IN GENERAL.—Subject to subsection (c), no
21 cause of action shall lie against a covered app store pro-
22 vider under section 4 if the covered app store provider per-
23 forms the following activities, as determined by the Com-
24 mission in accordance with subsection (b):

25 (1) AGE VERIFICATION.—Determine the age
26 category for each individual in the United States

1 that uses the app store of such provider and verify
2 such individual's age using commercially reasonable
3 methods.

4 (2) PARENTAL OVERSIGHT OF APP STORE
5 USAGE.—Obtain verifiable parental consent prior to
6 allowing a minor to use the app store of such pro-
7 vider, including by providing a mechanism for a par-
8 ent to block a minor from downloading any app that
9 is not suitable for the age category of the minor.

10 (3) PARENTAL OVERSIGHT OF APP
11 DOWNLOADS.—Obtain verifiable parental consent, on
12 a download-by-download basis, prior to allowing a
13 minor to download an app from the app store of
14 such provider, including by providing an easily ac-
15 cessible mechanism for a parent to consent to the
16 download of an app.

17 (4) PARENTAL OVERSIGHT OF APP PUR-
18 CHASES.—Obtain verifiable parental consent, on a
19 purchase-by-purchase basis, prior to allowing a
20 minor to purchase any app through the app store of
21 such provider, and such consent shall be valid for up
22 to 7 days.

23 (5) PARENTAL OVERSIGHT OF IN-APP PUR-
24 CHASES.—Obtain verifiable parental consent, on a
25 purchase-by-purchase basis, prior to allowing a

1 minor to make an in-app purchase through the app
2 store of such provider.

3 (6) PARENTAL OVERSIGHT OF APP USAGE.—

4 With respect to any covered app store provider that
5 owns or controls a mobile device's mobile operating
6 system, to the extent practicable, provide to parents
7 a clear and easy mechanism to set—

8 (A) filters that prevent a minor from ac-
9 cessing any adult website on the web browser of
10 the mobile device; and

11 (B) usage limits, including daily limits and
12 limitations during school and evening hours.

13 (7) APP AGE RATING DISPLAY.—To the extent
14 the covered app store provider displays age ratings
15 or descriptions of content, clearly and prominently
16 display the age rating or description of content for
17 each app available in the app store of the provider,
18 including information regarding the minimum age
19 category suitable for usage of an app.

20 (8) AGE CATEGORY SIGNAL TO DEVELOPERS.—

21 Provide to developers the ability to determine, in
22 real time, the age category of any user and, with re-
23 spect to any user that is a minor, whether the cov-
24 ered app store provider has obtained verifiable pa-
25 rental consent in accordance with this section.

1 (9) DEVELOPER STANDARDS.—Certify that any
2 developer of an app on the covered app store per-
3 forms the following activities, and remove any devel-
4 oper or app from the covered app store that fails to
5 perform such activities or sells age category data for
6 any reason:

7 (A) APP AGE RATING.—To the extent that
8 a developer provides age ratings or descriptions
9 of content to users, the developer shall—

10 (i) clearly provide to a user the de-
11 scription of content and clearly identify the
12 age category eligible for usage of an app;
13 and

14 (ii) provide such information to each
15 app store available in the United States.

16 (B) PARENTAL OVERSIGHT OF APP
17 USAGE.—To the extent technically feasible, the
18 developer shall use the application programming
19 interface of a covered app store provider to
20 verify—

21 (i) the age category of its users; and

22 (ii) in the case of a minor, whether
23 verifiable parental consent has been ob-
24 tained before allowing the use of the app
25 or in-app purchases.

1 (C) TIME RESTRICTIONS.—The developer
2 shall provide readily available features for a
3 parent to implement time restrictions with re-
4 spect to the app of such developer, including
5 the ability to view metrics reflecting the amount
6 of time that a minor is using the app and set
7 daily time limits on a minor’s use of such app.

8 (D) USE OF APP STORE PROVIDER SIG-
9 NAL.—Each developer shall use a covered app
10 store provider’s signal to determine the age cat-
11 egory of a user.

12 (b) DETERMINATION OF ELIGIBILITY.—

13 (1) IN GENERAL.—Upon request by a covered
14 app store provider, in such form and manner as the
15 Commission shall prescribe, the Commission shall—

16 (A) review the policies of the provider that
17 are relevant to the requirements described in
18 subsection (a) to determine whether the pro-
19 vider is eligible for the safe harbor described in
20 such subsection; and

21 (B) not later than 30 days after receiving
22 such request, submit to Congress and make
23 publicly available a notice confirming the safe
24 harbor eligibility of the provider if the Commis-
25 sion determines that the provider—

1 (i) meets the requirements described
2 in subsection (a); and

3 (ii) does not permit, or quickly rem-
4 edies, any method of circumventing the
5 protections described in such subsection.

6 (2) UPDATES TO POLICIES.—In the event that
7 a covered app store provider updates any policy that
8 is relevant to the requirements described in sub-
9 section (a), the provider shall notify the Commission
10 of such update to ensure that such update does not
11 impact the safe harbor eligibility of the provider
12 under paragraph (1).

13 (3) COMPLAINTS.—

14 (A) IN GENERAL.—Not later than 30 days
15 after the date of enactment of this Act, the
16 Commission shall establish a mechanism to re-
17 ceive complaints regarding the compliance of
18 any covered app store provider determined to be
19 eligible for safe harbor under paragraph (1)
20 with the requirements described in subsection
21 (a).

22 (B) REVIEW.—The Commission shall regu-
23 larly review any complaints received through
24 such mechanism and, if necessary, evaluate the

1 relevant provider's continued eligibility for safe
2 harbor.

3 (4) PERIOD OF ELIGIBILITY.—The Commis-
4 sion's determination of safe harbor eligibility with
5 respect to a covered app store provider shall be valid
6 for 1 year.

7 (5) CONGRESSIONAL REVIEW.—Each deter-
8 mination of eligibility made by the Commission
9 under paragraph (1) shall be considered an agency
10 rule subject to chapter 8 of title 5, United States
11 Code, for purposes of a joint resolution of dis-
12 approval, except that—

13 (A) the 60-day period for filing a joint res-
14 olution under section 802(a) of such title shall
15 not apply; and

16 (B) a joint resolution of disapproval may
17 contain one or more such agency rules de-
18 scribed in paragraph (1).

19 (c) DISQUALIFYING ACTIVITY.—The safe harbor de-
20 scribed in subsection (a) shall not apply if the Commission
21 determines that the covered app store provider—

22 (1) sells age category data for any reason; or

23 (2) acts in a manner contrary to the sense of
24 Congress described in section 2.

1 (d) RULES OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed—

3 (1) to prevent a covered app store provider
4 from taking reasonable measures to block, detect, or
5 prevent the distribution of unlawful, obscene, or
6 other harmful material to minors, to block or filter
7 spam, to prevent criminal activity, or to protect the
8 security of an app store or app;

9 (2) to require a covered app store provider to
10 disclose to a developer any information about a user
11 other than such user’s age category and, with re-
12 spect to any user that is a minor, whether the cov-
13 ered app store provider has obtained verifiable pa-
14 rental consent in accordance with this section;

15 (3) to allow a covered app store provider to use
16 any measures required by this section in a way that
17 is arbitrary, capricious, anti-competitive, or unlaw-
18 ful; or

19 (4) to affect or restrict the expression of polit-
20 ical, religious, or other viewpoints.

21 **SEC. 6. SEVERABILITY.**

22 If any provision of this Act, or the application thereof
23 to any person or circumstance, is held invalid, the remain-
24 der of this Act, and the application of such provision to

1 other persons not similarly situated or to other cir-
2 cumstances, shall not be affected by the invalidation.

3 **SEC. 7. EFFECTIVE DATE.**

4 Except as otherwise provided in this Act, this Act
5 shall take effect on the date that is 1 year after the date
6 of enactment of this Act.