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IN SENATE

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Introduced by Sens. MARTINS, ASHBY, CANZONERI-FITZPATRICK, GALLIVAN, GRIFFO, HELMING, MATTERA, MURRAY, OBERACKER, PALUMBO, RHOADS, STEC, WEBER, WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology

AN ACT to amend the general business law and the executive law, in relation to the regulation of social media companies and social media platforms

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new article
2 9-D to read as follows:

ARTICLE 9-D

NEW YORK SOCIAL MEDIA REGULATION ACT

Section 149-c. Definitions.

6 149-d. Age requirements for use of social media platform;
7 parental consent.

8 149-e. Prohibitions on data collection for certain accounts.

9 149-f. Parental access to social media account.

10 149-g. Limited hours of access for minors; parental access and
11 options.

12 149-h. Enforcement.

13 149-i. Private right of action.

14 § 149-c. Definitions. As used in this article, the following terms
15 shall have the following meanings:

16 1. "Account holder" means a person who has, or opens, an account or
17 profile to use a social media company's platform.

18 2. "Division" means the consumer protection division established
19 pursuant to section ninety-four-a of the executive law.

20 3. "Educational entity" means a public school, a local education agen-
21 cy, a charter school, a private school, a denominational school, a paro-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 chial school, a community college, a state university, a city universi-
2 ty, or a nonprofit private postsecondary educational institution.

3 4. (a) "Interactive computer service" means an information service,
4 information system, or information access software provider that:

5 (i) provides or enables computer access by multiple users to a comput-
6 er server; and

7 (ii) provides access to the internet.

8 (b) "Interactive computer service" shall include:

9 (i) a web service;

10 (ii) a web system;

11 (iii) a website;

12 (iv) a web application; or

13 (v) a web portal.

14 5. "Minor" means an individual who is under the age of eighteen years
15 old and:

16 (a) has not been emancipated; or

17 (b) has not been married.

18 6. "Post" means content that an account holder makes available on a
19 social media platform for other account holders or users to view.

20 7. "Social media company" means a person or entity that:

21 (a) provides a social media platform that has at least five million
22 account holders worldwide; and

23 (b) is an interactive computer service.

24 8. (a) "Social media platform" means an online forum that a social
25 media company makes available for an account holder to:

26 (i) create a profile;

27 (ii) upload posts;

28 (iii) view the posts of other account holders; and

29 (iv) interact with other account holders or users.

30 (b) "Social media platform" shall not include an online service,
31 website, or application:

32 (i) where the predominant or exclusive function is:

33 (A) electronic mail;

34 (B) direct messaging consisting of text, photos, or videos that are
35 sent between devices by electronic means, where messages are shared
36 between the recipient, only visible to the sender and the recipient and
37 are not posted publicly;

38 (C) a streaming service that provides only licensed media in a contin-
39 uous flow from the service, website, or application to the end user and
40 does not obtain a license to the media from a user or account holder by
41 agreement to its terms of service;

42 (D) news, sports, entertainment, or other content that is preselected
43 by the provider and not user generated, and any chat, comment, or inter-
44 active functionality that is provided incidental to, directly related
45 to, or dependent upon provision of the content;

46 (E) online shopping or e-commerce, if the interaction with other users
47 or account holders is generally limited to the ability to upload a post
48 and comment on reviews, the ability to display lists or collections of
49 goods for sale or wish lists or other functions that are focused on
50 online shopping or electronic commerce rather than interaction between
51 users or account holders;

52 (F) interactive gaming, virtual gaming, or an online service, that
53 allows the creation and uploading of content for the purpose of interac-
54 tive gaming, edutainment, or associated entertainment, and the communi-
55 cation related to that content;

1 (G) photo editing that has an associated photo hosting service, if the
2 interaction with other users or account holders is generally limited to
3 liking or commenting;

4 (H) a professional creative network for showcasing and discovering
5 artistic content, if the content is required to be non-pornographic;

6 (I) single-purpose community groups for public safety if the inter-
7 action with other users or account holders is generally limited to that
8 single purpose and the community group has guidelines or policies
9 against illegal content;

10 (J) providing career development opportunities, including professional
11 networking, job skills, learning certifications, and job posting and
12 application services;

13 (K) business to business software;

14 (L) a teleconferencing or videoconferencing service that allows recep-
15 tion and transmission of audio and video signals for real time communi-
16 cation;

17 (M) cloud storage;

18 (N) shared document collaboration;

19 (O) cloud computing services, which may include cloud storage and
20 shared document collaboration;

21 (P) providing access to or interacting with data visualization plat-
22 forms, libraries, or hubs;

23 (Q) to permit comments on a digital news website, if the news content
24 is posted only by the provider of the digital news website;

25 (R) providing or obtaining technical support for a platform, product,
26 or service;

27 (S) academic or scholarly research; or

28 (T) genealogical research;

29 (ii) where the majority of the content that is posted or created is
30 posted or created by the provider of the online service, website, or
31 application and the ability to chat, comment, or interact with other
32 users is directly related to the provider's content;

33 (iii) that is a classified ad service that only permits the sale of
34 goods and prohibits the solicitation of personal services; or

35 (iv) that is used by and under the direction of an educational entity,
36 including but not limited to:

37 (A) a learning management system;

38 (B) a student engagement program; and

39 (C) a subject or skill-specific program.

40 9. "User" means a person who has access to view all, or some of, the
41 posts on a social media platform, but is not an account holder.

42 10. "New York state account holder" means a person who is a resident
43 of the state of New York and an account holder, and shall include a New
44 York state minor account holder.

45 11. "New York state minor account holder" means a New York account
46 holder who is a minor.

47 § 149-d. Age requirements for use of social media platform; parental
48 consent. 1. A social media company may not permit a New York state resi-
49 dent who is a minor to be an account holder on such social media compa-
50 ny's social media platform unless such New York state resident has the
51 express consent of a parent or guardian.

52 2. Notwithstanding any provision of law to the contrary, a social
53 media company may not permit a New York state resident who is a minor to
54 hold or open an account on a social media platform if such minor is
55 ineligible to hold or open an account under any other provision of state
56 or federal law.

1 3. (a) Beginning March first, two thousand twenty-six, a social media
2 company shall verify the age of an existing or new New York state
3 account holder and, if the existing or new account holder is a minor,
4 confirm that such minor has consent as required pursuant to subdivision
5 one of this section for:

6 (i) a new account, at the time such New York state resident opens the
7 account; or

8 (ii) a New York state account holder who has not provided age verifi-
9 cation as required under this section, within fourteen calendar days of
10 the New York state account holder's attempt to access the account.

11 (b) If a New York state account holder fails to meet the verification
12 requirements of this section within the required time period, the social
13 media company shall deny access to the account:

14 (i) upon the expiration of the required time period; and

15 (ii) until all verification requirements are met.

16 4. In accordance with section ninety-four-a of the executive law, the
17 division shall make rules to:

18 (a) establish processes or means by which a social media company may
19 meet the age verification requirements of this article;

20 (b) establish acceptable forms or methods of identification, which may
21 include but not be limited to a valid identification card issued by a
22 government entity;

23 (c) establish requirements for providing confirmation of the receipt
24 of any information provided by a person seeking to verify age under this
25 article;

26 (d) establish processes or means to confirm that a parent or guardian
27 has provided consent for the minor to open or use an account as required
28 under this section;

29 (e) establish requirements for retaining, protecting, and securely
30 disposing of any information obtained by a social media company or its
31 agent as a result of compliance with the requirements of this article;

32 (f) require that information obtained by a social media company or its
33 agent in order to comply with the requirements of this article are only
34 retained for the purpose of compliance and may not be used for any other
35 purpose;

36 (g) if the division permits an agent to process verification require-
37 ments required by this section, require that such agent have its princi-
38 pal place of business in the United States of America;

39 (h) require other applicable state agencies to comply with any rules
40 promulgated under the authority of this section; and

41 (i) ensure that the rules are consistent with state and federal law.

42 § 149-e. Prohibitions on data collection for certain accounts. Begin-
43 ning March first, two thousand twenty-six, a social media company, for a
44 social media platform account held by a New York state minor account
45 holder:

46 1. shall prohibit direct messaging between the account and any other
47 user that is not linked to the account through friending;

48 2. may not show the account in search results for any user that is not
49 linked to the account through friending;

50 3. shall prohibit the display of any advertising in the account;

51 4. shall not collect or use any personal information from the posts,
52 content, messages, text, or usage activities of the account other than
53 information that is necessary to comply with, and to verify compliance
54 with, state or federal law, which information shall include a parent or
55 guardian's name, a birth date, and any other information required to be
56 submitted under this section; and

1 5. shall prohibit the use of targeted or suggested groups, services,
2 products, posts, accounts, or users in the account.

3 § 149-f. Parental access to social media account. Beginning March
4 first, two thousand twenty-six, a social media company shall provide a
5 parent or guardian who has given parental consent for a New York state
6 minor account holder pursuant to section one hundred forty-nine-d of
7 this article with a password or other means for such parent or guardian
8 to access such account, which shall allow such parent or guardian to
9 view:

10 1. all posts the New York state minor account holder makes under the
11 social media platform account; and

12 2. all responses and messages sent to or by the New York state minor
13 account holder in the social media platform account.

14 § 149-g. Limited hours of access for minors; parental access and
15 options. 1. Beginning March first, two thousand twenty-six, a social
16 media company shall prohibit a New York state minor account holder from
17 having access to the New York state minor account holder's account
18 during the hours of 10:30 p.m. to 6:30 a.m., unless the access is modi-
19 fied according to another requirement of this section.

20 2. Time of day under this section shall be calculated based on the
21 internet protocol address being used by the New York state minor account
22 holder at the time of attempting access.

23 3. A social media company shall provide options for a parent or guard-
24 ian with access to an account under section one hundred forty-nine-f of
25 this article to:

26 (a) change or eliminate the time-of-day restriction described in
27 subdivision one of this section; and

28 (b) set a limit on the number of hours per day that a New York state
29 minor account holder may use the account.

30 4. A social media company shall not permit a New York state minor
31 account holder to change or bypass restrictions on access as required by
32 this section.

33 5. Notwithstanding any provision of this section, a social media
34 company shall permit a parent or guardian with access to an account
35 pursuant to section one hundred forty-nine-f of this article to access
36 the account without time restrictions.

37 § 149-h. Enforcement. 1. The attorney general, upon request, shall
38 provide legal advice to, and act as counsel for, the division in the
39 exercise of the division's duties pursuant to this article.

40 2. (a) Subject to the ability to cure an alleged violation as set
41 forth in subdivision three of this section, the division:

42 (i) may impose an administrative fine of up to twenty-five hundred
43 dollars for each violation of this article; and

44 (ii) the division may bring an action in a court of competent juris-
45 isdiction to enforce any provision of this article.

46 (b) In a court action brought by the division pursuant to subparagraph
47 (ii) of paragraph (a) of this subdivision, a court may:

48 (i) declare that the act in question violates a provision of this
49 article;

50 (ii) issue an injunction for any violation of this article;

51 (iii) impose a civil penalty of up to twenty-five hundred dollars for
52 each violation of this article;

53 (iv) award actual damages to an injured party; and

54 (v) award any other relief that the court deems reasonable and neces-
55 sary.

1 3. (a) At least thirty days before the day on which the division
2 initiates an enforcement action against a person that is subject to the
3 requirements of this article, the division shall provide such person
4 with:

5 (i) written notice that identifies each alleged violation; and

6 (ii) an explanation of the basis for each allegation;

7 (b) Except as provided in paragraph (c) of this subdivision, the divi-
8 sion may not initiate an action if the person:

9 (i) cures the noticed violation or violations within thirty days after
10 the day which such person receives notice pursuant to paragraph (a) of
11 this subdivision; and

12 (ii) provides the division with a written statement that states that
13 such person has cured the violation or violations and no further
14 violation will occur.

15 (c) The division may initiate a civil action against a person that:

16 (i) fails to cure a violation after receiving the notice pursuant to
17 paragraph (a) of this subdivision; or

18 (ii) after curing a noticed violation and providing a written state-
19 ment in accordance with paragraph (b) of this subdivision, commits
20 another violation of the same provision.

21 4. If a court of competent jurisdiction grants judgment or injunctive
22 relief to the division, the court shall award the division:

23 (a) reasonable attorneys' fees;

24 (b) court costs; and

25 (c) investigative fees.

26 5. (a) A person who violates an administrative or court order issued
27 for a violation of this article shall be subject to a civil penalty of
28 no more than five thousand dollars for each violation.

29 (b) A civil penalty authorized under this section may be imposed in
30 any civil action brought by the division, or by the attorney general on
31 behalf of the division.

32 6. All money received for the payment of a fine or civil penalty
33 imposed under this section shall be deposited into the consumer
34 protection account established pursuant to section ninety-seven-www of
35 the state finance law.

36 § 149-i. Private right of action. 1. A person may bring an action
37 against a person that does not comply with the provisions of this arti-
38 cle in a court of competent jurisdiction.

39 2. If a court finds that a person has violated a provision of this
40 article, the person who brings an action under this section shall be
41 entitled to:

42 (a) an award of reasonable attorneys' fees and court costs; and

43 (b) an amount equal to the greater of:

44 (i) twenty-five hundred dollars per each incident of violation; or

45 (ii) actual damages for financial, physical, and emotional harm
46 incurred by the person bringing the action, if the court determines that
47 the harm is a direct consequence of the violation or violations.

48 § 2. Subparagraphs 15 and 16 of paragraph (a) of subdivision 3 of
49 section 94-a of the executive law, subparagraph 15 as amended and
50 subparagraph 16 as added by chapter 374 of the laws of 2022, are amended
51 and a new subparagraph 17 is added to read as follows:

52 (15) create an internet website or webpage pursuant to section three
53 hundred ninety-c of the general business law, as added by chapter five
54 hundred nine of the laws of two thousand seven; ~~and~~

55 (16) exercise such powers and duties granted to the secretary by arti-
56 cle sixteen of the energy law as the secretary may direct, including,

1 but not limited to: consult with such president of the New York state
2 energy research and development authority in connection with investi-
3 gations conducted by such president pursuant to article sixteen of the
4 energy law; make determinations relating to compliance by products with
5 the standards adopted pursuant to article sixteen of the energy law;
6 order the immediate cessation of any distribution, sale or offer for
7 sale, import, or installation of any product that does not meet such
8 standards; and impose civil penalties as contemplated by article sixteen
9 of the energy law[-]; and

10 (17) exercise such powers and duties granted to the division by arti-
11 cle nine-D of the general business law as the secretary may direct,
12 including, but not limited to:

13 (i) receiving consumer complaints alleging a violation of article
14 nine-D of the general business law; and

15 (ii) investigating consumer complaints to determine whether a
16 violation of article nine-D of the general business law has occurred.

17 § 3. Subdivision 5 of section 94-a of the executive law is amended by
18 adding a new paragraph (c) to read as follows:

19 (c) No later than one year from the effective date of this paragraph,
20 and annually thereafter, the secretary shall furnish to the governor,
21 the speaker of the assembly and the temporary president of the senate a
22 report:

23 (i) evaluating the liability and enforcement provisions of article
24 nine-D of the general business law, including the effectiveness of the
25 consumer protection division's efforts to enforce article nine-D of the
26 general business law;

27 (ii) summarizing the consumer interactions that are protected and not
28 protected by article nine-D of the general business law, including a
29 list of alleged violations the consumer protection division has
30 received; and

31 (iii) an accounting of:

32 (1) all administrative fines and civil penalties assessed under arti-
33 cle nine-D of the general business law during the year;

34 (2) all administrative fines and civil penalties collected under arti-
35 cle nine-D of the general business law during the year; and

36 (3) summarizing how funds received from fines and penalties under
37 article nine-D of the general business law that were placed in the
38 consumer protection account established pursuant to section ninety-sev-
39 en-www of the state finance law were used.

40 § 4. Severability. If any item, clause, sentence, subparagraph, subdi-
41 vision, section or other part of this act, or the application thereof to
42 any person or circumstances shall be held to be invalid, such holding
43 shall not affect, impair or invalidate the remainder of this act, or the
44 application of such section or part of a section held invalid, to any
45 other person or circumstances, but shall be confined in its operation
46 to the item, clause, sentence, subparagraph, subdivision, section or
47 other part of this act directly involved in such holding, or to the
48 person and circumstances therein involved.

49 § 5. This act shall take effect December 31, 2025. Effective imme-
50 diately, the addition, amendment, and/or repeal of any rule or regu-
51 lation necessary for the implementation of this act on its effective
52 date are authorized to be made and completed on or before such effective
53 date.