

STATE OF NEW YORK

7694

2023-2024 Regular Sessions

IN SENATE

October 13, 2023

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the general business law, in relation to enacting the Stop Addictive Feeds Exploitation (SAFE) for Kids act prohibiting the provision of an addictive feed to a minor

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

1 Section 1. This act shall be known and may be cited as the "Stop
2 Addictive Feeds Exploitation (SAFE) for Kids act".

3 § 2. The general business law is amended by adding a new article 45 to
4 read as follows:

5 ARTICLE 45
6 SAFE FOR KIDS ACT

7 Section 1500. Definitions.

8 1501. Prohibition of addictive feeds.

9 1502. Time controls.

10 1503. Age flags.

11 1504. Nondiscrimination.

12 1505. Rulemaking authority.

13 1506. Scope.

14 1507. Remedies.

15 § 1500. Definitions. For the purposes of this article, the following
16 terms shall have the following meanings:

17 1. "Addictive feed" shall mean a website, online service, online
18 application, or mobile application, or a portion thereof, in which
19 multiple pieces of media generated or shared by users of a website,
20 online service, online application, or mobile application, either
21 concurrently or sequentially, are recommended, selected, or prioritized
22 for display to a user based, in whole or in part, on information associ-
23 ated with the user or the user's device, unless any of the following
24 conditions are met, alone or in combination with one another:

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

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1 (a) the information is not persistently associated with the user or
2 user's device, and does not concern the user's previous interactions
3 with media generated or shared by others;

4 (b) the information is user-selected privacy or accessibility
5 settings, technical information concerning the user's device, or device
6 communications or signals concerning whether the user is a minor;

7 (c) the user expressly and unambiguously requested the specific media
8 or media by the author, creator, or poster of the media, provided that
9 the media is not recommended, selected, or prioritized for display
10 based, in whole or in part, on other information associated with the
11 user or the user's device that is not otherwise permissible under this
12 subdivision;

13 (d) the media are direct, private communications; or

14 (e) the media recommended, selected, or prioritized for display is
15 exclusively the next media in a pre-existing sequence from the same
16 author, creator, poster, or source.

17 2. "Addictive social media platform" shall mean a website, online
18 service, online application, or mobile application, that offers or
19 provides users an addictive feed that is not incidental to the provision
20 of such website, online service, online application, or mobile applica-
21 tion.

22 3. "Covered minor" shall mean a user of a website, online service,
23 online application, or mobile application in New York when the operator
24 has actual knowledge the user is a minor.

25 4. "Covered user" shall mean a user of a website, online service,
26 online application, or mobile application in New York.

27 5. "Media" shall mean text, an image, or a video.

28 6. "Minor" shall mean an individual under the age of eighteen.

29 7. "Operator" shall mean any person who operates or provides a website
30 on the internet, an online service, an online application, or a mobile
31 application.

32 8. "Parent" shall mean parent or legal guardian.

33 9. "User" shall mean a person not acting as an agent of an operator.

34 § 1501. Prohibition of addictive feeds. 1. It shall be unlawful for
35 the operator of an addictive social media platform to provide an addic-
36 tive feed to a covered user unless:

37 (a) the operator has used commercially reasonable methods to determine
38 that the covered user is not a covered minor; or

39 (b) the operator has obtained verifiable parental consent to provide
40 an addictive feed to the covered user.

41 2. Information collected for the purpose of determining a covered
42 user's age under paragraph (a) of subdivision one of this section shall
43 not be used for any purpose other than age determination.

44 3. Nothing in this section shall be construed as requiring the opera-
45 tor of an addictive social media platform to give a parent who grants
46 verifiable parental consent any additional or special access to or
47 control over the data or accounts of their child.

48 4. Nothing in this section shall be construed as preventing any action
49 taken in good faith to restrict access to or availability of media that
50 the operator of an addictive social media platform considers to be
51 obscene, lewd, lascivious, filthy, excessively violent, harassing, or
52 otherwise objectionable, whether or not such material is constitu-
53 tionally protected.

54 § 1502. Time controls. 1. It shall be unlawful for the operator of an
55 addictive social media platform to, between the hours of 12 AM Eastern
56 and 6 AM Eastern, send notifications concerning an addictive social

1 media platform to a covered minor unless the operator has obtained veri-
2 fiable parental consent to send such nighttime notifications.

3 2. The operator of an addictive social media platform shall provide a
4 mechanism through which the verified parent of a covered minor may:

5 (a) prevent their child from accessing the addictive social media
6 platform between the hours of 12 AM Eastern and 6 AM Eastern; and

7 (b) limit their child's access to the addictive social media platform
8 to a length of time per day specified by the verified parent.

9 3. Nothing in this section shall be construed as requiring the opera-
10 tor of an addictive social media platform to give a parent any addi-
11 tional or special access to or control over the data or accounts of
12 their child.

13 § 1503. Age flags. For the purposes of this article, the operator of
14 an addictive social medial platform shall treat a user as a minor if the
15 user's device communicates or signals that the user is or shall be
16 treated as a minor, including through a browser plug-in or privacy
17 setting, device setting, or other mechanism.

18 § 1504. Nondiscrimination. An operator of an addictive social media
19 platform shall not withhold, degrade, lower the quality, or increase the
20 price of any product, service, or feature, other than as required by
21 this article, to a covered user due to the operator not being permitted
22 to provide an addictive feed to such covered user under subdivision one
23 of section fifteen hundred one of this article or not being permitted to
24 provide such covered user access to or send notifications concerning an
25 addictive social media platform between the hours of 12 AM Eastern and 6
26 AM Eastern under section fifteen hundred two of this article.

27 § 1505. Rulemaking authority. The attorney general may promulgate such
28 rules and regulations as are necessary to effectuate and enforce the
29 provisions of this article.

30 § 1506. Scope. 1. This article shall apply to conduct that occurs in
31 whole or in part in New York. For purposes of this article, conduct
32 takes place wholly outside of New York if the addictive social media
33 platform is accessed by a user who is physically located outside of New
34 York.

35 2. Nothing in this article shall be construed to impose liability for
36 commercial activities or actions by operators subject to 15 U.S.C. §
37 6501 that is inconsistent with the treatment of such activities or
38 actions under 15 U.S.C. § 6502.

39 § 1507. Remedies. 1. Whenever it appears to the attorney general,
40 either upon complaint or otherwise, that any person, within or outside
41 the state, has engaged in or is about to engage in any of the acts or
42 practices stated to be unlawful in this article, the attorney general
43 may bring an action or special proceeding in the name and on behalf of
44 the people of the state of New York to enjoin any violation of this
45 article, to obtain restitution of any moneys or property obtained
46 directly or indirectly by any such violation, to obtain disgorgement of
47 any profits or gains obtained directly or indirectly by any such
48 violation, including but not limited to the destruction of unlawfully
49 obtained data and algorithms trained on such data, to obtain damages
50 caused directly or indirectly by any such violation, to obtain civil
51 penalties of up to five thousand dollars per violation, and to obtain
52 any such other and further relief as the court may deem proper, includ-
53 ing preliminary relief.

54 2. Any covered user, or the parent of a covered minor may bring an
55 action for a violation of section fifteen hundred one or section fifteen
56 hundred two of this article, to obtain:

1 (a) damages of up to five thousand dollars per covered user per inci-
2 dent or actual damages, whichever is greater;
3 (b) injunctive or declaratory relief; and/or
4 (c) any other relief the court deems proper.

5 3. Actions brought pursuant to this section may be brought on a class-
6 wide basis.

7 4. The court shall award reasonable attorneys' fees to a prevailing
8 plaintiff.

9 5. Prior to bringing any action for a violation of section fifteen
10 hundred one or fifteen hundred two of this article, a covered user shall
11 provide the business thirty days' written notice identifying the specif-
12 ic provisions of this article the covered user alleges have been or are
13 being violated. In the event a cure is possible, if within the thirty
14 days the business cures the noticed violation and provides the covered
15 user an express written statement that the violations have been cured
16 and that no further violations shall occur, no action for individual
17 statutory damages or class-wide statutory damages may be initiated
18 against the business. No notice shall be required prior to an individual
19 consumer initiating an action solely for actual pecuniary damages
20 suffered as a result of the alleged violations of this article. If a
21 business continues to violate this article in breach of an express writ-
22 ten statement provided to the covered user pursuant to this section, the
23 covered user may initiate an action against the business to enforce the
24 written statement and may pursue statutory damages for each breach of
25 the express written statement, as well as any other violation of the
26 article that postdates the written statement.

27 § 3. Severability. If any clause, sentence, paragraph, subdivision,
28 section or part of this act shall be adjudged by any court of competent
29 jurisdiction to be invalid, such judgment shall not affect, impair, or
30 invalidate the remainder thereof, but shall be confined in its operation
31 to the clause, sentence, paragraph, subdivision, section or part thereof
32 directly involved in the controversy in which such judgment shall have
33 been rendered. It is hereby declared to be the intent of the legislature
34 that this act would have been enacted even if such invalid provisions
35 had not been included herein.

36 § 4. This act shall take effect on the one hundred eightieth day after
37 the office of the attorney general shall promulgate rules and regu-
38 lations necessary to effectuate the provisions of this act; provided
39 that the office of the attorney general shall notify the legislative
40 bill drafting commission upon the occurrence of the enactment of the
41 rules and regulations necessary to effectuate and enforce the
42 provisions of section two of this act in order that the commission may
43 maintain an accurate and timely effective data base of the official text
44 of the laws of the state of New York in furtherance of effectuating the
45 provisions of section 44 of the legislative law and section 70-b of the
46 public officers law. Effective immediately, the addition, amendment
47 and/or repeal of any rule or regulation necessary for the implementation
48 of this act on its effective date are authorized to be made and
49 completed on or before such effective date.