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Office of Research
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H.B. 226 136th General Assembly	Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. M. Miller

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SUMMARY

- Requires application developers to determine if the application is likely to be used by children and, if so, to inform the application stores in which the application is distributed.

- Requires device manufacturers to determine or estimate the age of a device's primary user.

- Requires application stores to obtain parental consent before permitting a child under the age of 16 to download certain applications.

- Requires developers to provide certain parental control features to parents of users under the age of 18.

- Applies the requirements beginning January 1, 2026, or, for devices sold before that date, following the first update to the device after January 1, 2027.

- Allows the Attorney General, 45 days after providing written notice, to file suit against violators of the above requirements.

DETAILED ANALYSIS

Developers

Beginning January 1, 2026, the bill requires application developers, prior to distributing or maintaining an application, to determine whether the application is likely to be accessed by children. In making that determination, developers may use either "competent and reliable evidence regarding audience composition" or "internal research findings." If a developer determines that the application is likely to be accessed by children, the developer must notify application stores that distribute the application.

The bill also requires developers to provide certain parental controls for applications that are likely to be accessed by children (referred to by the bill as "covered applications"). Beginning

January 1, 2026, to the extent applicable and technically feasible, developers are required to provide parents the ability to manage which accounts are linked to the child, manage the delivery of age-appropriate content, and limit the daily amount of time a child may spend on the application.[1]

Manufacturers

Device manufacturers

The bill requires that manufacturers of devices sold in Ohio on or after January 1, 2026, take commercially reasonable and technically feasible steps to determine or estimate the age of the device's primary user upon the device's initial activation.

For the purposes of the bill, "**device**" is defined as follows:

> [A] device or portion of a device that is designed for and capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data, including a desktop computer, laptop, cellular telephone, tablet, or other device designed for and capable of communicating with or across a computer network and used for such purpose.

The definition excludes modems, routers, managed set-top boxes, or physical objects that only support communications within a closed user group or private network available to a limited set of users.[2]

Operating system manufacturers

For devices sold in Ohio before January 1, 2026, the bill requires that the manufacturer of the device's operating system take commercially reasonable and technically feasible steps to determine or estimate the age of the device's primary user following the first update to the operating system that occurs after January 1, 2027.[3]

Application store manufacturers

The bill requires manufacturers of application stores, beginning January 1, 2026, to take commercially reasonable and technically feasible steps to provide a mechanism by which application developers can notify manufacturers that an application is likely to be accessed by children. Furthermore, if an application is likely to be accessed by children, before allowing a user under the age of 16 to download the application, application store manufacturers must obtain parental consent and signal this consent to the application's developer. Manufacturers are also

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[1] R.C. 1349.07(A), (B), and (F).

[2] R.C. 1349.07(C)(1) and (A)(8).

[3] R.C. 1349.07(C)(2).

required to provide the option for consenting parents to connect with the application's developer for the purpose of facilitating parental supervision tools.[4]

General

In addition, the bill requires manufacturers of devices, operating systems, and application stores to take commercially reasonable and technically feasible steps to provide developers of applications that are likely to be accessed by children with information regarding a user's age. Specifically, the manufacturer is required to provide a digital signal to developers via a real-time application programming interface regarding whether the manufacturer knows or estimates a user to be under the age of 13, between age 13 and 16, between age 16 and 18, or older than age 18.[5]

Data collection and retention

The bill specifies that it does not require application developers or manufacturers of devices, operating systems, or application stores to access, retain, re-identify, or link information outside of the developer's or manufacturer's ordinary course of business, except as absolutely necessary to comply with the bill. It is not clear how a court would construe this somewhat vague standard.[6]

Existing account controls

The bill specifies that an application developer or a manufacturer of a device, operating system, or application store is not required to implement new account controls or safety settings if its existing controls and settings are sufficient to comply with the bill.[7]

Antitrust law

The bill specifies that it does not modify, impair, or supersede the operation of any federal or state antitrust law. Additionally, the bill requires application store manufacturers to comply with the bill in a nondiscriminatory way by imposing the same restrictions on their own applications as they do on third-party applications, by not using data collected from third parties to compete against the third parties, or by otherwise acting in a manner adverse to competition.[8]

Enforcement

The bill empowers the Attorney General to bring a civil action against alleged violators of the bill's provisions and seek damages of up to $2,500 per violation. The bill specifies that it does not create a private right of action. Prior to bringing an action, the Attorney General is required to provide the alleged violator with written notice identifying and explaining the alleged violation.

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[4] R.C. 1349.07(D).

[5] R.C. 1349.07(E).

[6] R.C. 1349.07(G)(1).

[7] R.C. 1349.07(G)(2).

[8] R.C. 1349.07(H).

If the alleged violator cures all violations described in the notice and agrees in writing to refrain from committing further violations within 45 days of the notice being sent, the Attorney General is prohibited from bringing an enforcement action. If the alleged violator fails to cure the violation in time, damages begin to accrue on the 46th day. If, however, the alleged violator has previously committed a violation of the same type, the Attorney General may bring an enforcement action immediately after sending notice.

The bill provides that if an entity takes commercially reasonable and technically feasible steps to comply with the bill, they may not be held liable. In addition, developers relying on incorrect age or parental consent signals sent by manufacturers may not be held liable for failing to provide the requisite parental controls to users of their applications.[9]

If the bill's enforcement were challenged, a court might examine it with respect to the First and Fourteenth Amendments to the U.S. Constitution. The U.S. District Court for the Southern District of Ohio enjoined enforcement of a similar Ohio law, enacted in 2023 by H.B. 33 of the 135th General Assembly, that requires operators of social media websites to obtain "verifiable consent" from a parent or guardian before allowing an Ohio resident under age 16 to create an account. The court held that the H.B. 33 provisions are content-based and subject to strict scrutiny under the First Amendment. Furthermore, the court indicated that the H.B. 33 provisions could be void for vagueness under the Due Process Clause Fourteenth Amendment.[10]

HISTORY

Action	Date
Introduced	04-07-25

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[9] R.C. 1349.07(I).

[10] *NetChoice, LLC v. Yost*, S.D. Ohio, No. 2:24-cv-0047, 2024 U.S. Dist. LEXIS 24129 (February 12, 2024).