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H.B. 226
(1_136_1246-5)
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 226's Bill Analysis](#)

Version: In House Judiciary

Primary Sponsor: Rep. M. Miller

Local Impact Statement Procedure Required: No

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Highlights

- The costs for the Office of the Attorney General's Consumer Protection Section to investigate matters related to misrepresentation of information in a parental consent disclosure will depend on the number of complaints filed/reported, investigations performed, and enforcement actions taken. To some degree, any related increase in operating costs might be offset by the collection of civil penalties credited to the Consumer Protection Enforcement Fund (Fund 6310).
- The bill provides that a minor or the parent of a minor harmed by an application store or developer failing to comply with the bill's prohibitions has a cause of action against that party. The number of additional civil actions is expected to be relatively small in the context of a court's total caseload. Any costs, likely minimal, would be absorbed utilizing existing staff and resources and partially offset if any civil penalties are assessed and recouped.

Detailed Analysis

Effective January 1, 2027, the bill implements the App Store Accountability Act, which will require app store providers to obtain consent from and disclose certain information to parents before permitting minors to download or purchase an app or make in-app purchases. It also requires developers to verify through the app store's data sharing methods the age category of account holders and for a minor account whether parental consent has been obtained. The processes and means by which an app store may verify whether an account holder is a minor will be established by rules adopted by the Director of Commerce. The bill's specific requirements related to age verification, parental consent, data collection and retention, notifications and disclosures, and its prohibitions and liability exemptions are detailed in the [LSC bill analysis and substitute comparative synopses](#).

Enforcement

Under the bill, a developer or app store that knowingly misrepresents information in a parental consent disclosure commits an unfair or deceptive act or practice under the Consumer Sales Practices Act (CSPA).

The Attorney General has broad authority to enforce the CSPA, including suing for injunctive relief and civil penalties. Depending upon the nature of the violation, the court is permitted to impose a civil penalty of up to between \$5,000 and \$25,000. Pursuant to current law, the civil penalties are distributed as follows: three-fourths, or 75%, to the state's existing Consumer Protection Enforcement Fund (Fund 6310) and one-fourth, or 25%, to the treasury of the county where the action is brought.

Any civil penalties assessed and recouped would partially offset enforcement costs. The amount and timing of any enforcement costs depends on the compliance of businesses, the Attorney General's discretion on pursuing enforcement, and the outcomes of any civil actions brought. Presumably, the Consumer Protection Section will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive practice complaints and available resources. Typically, there is an attempt to try to negotiate a settlement and taking a matter to trial is a last resort.

Additionally, the bill provides a civil remedy limited to a minor or the parent of a minor harmed by an app store or developer failing to comply with the bill's prohibitions against (1) enforcing a contract or terms of service against a minor unless verifiable parental consent has been obtained, (2) knowingly misrepresenting information in a parental consent disclosure, or (3) sharing personal age category data except to a developer, as required by the bill, or as otherwise required by law. In the event a minor or parent prevails, the court must award actual damages, or \$1,000 per violation, whichever is greater, reasonable attorney's fees, and litigation costs.

The number of new civil case filings, either from individuals or the Attorney General, that may result is uncertain but likely will be minimal for any single jurisdiction and court. The costs related to these new filings will be at least partially offset by the collection of a filing fee.

Synopsis of Fiscal Effect Changes

The latest substitute bill (I_136_1246-5) makes various definitional changes and modifies requirements applicable to app store providers and developers compared to the previous version of the bill (I_136_1246-3). These changes do not impact violations of the bill's prohibition against knowingly misrepresenting information in a parental disclosure, which is enforceable by the Attorney General under the Consumer Sales Practices Act (CSPA), or the conditions under which a private action by a minor or parent may be brought. As a result, the fiscal impact on the Attorney General in terms of CSPA enforcement and the courts to adjudicate additional civil actions stemming from the bill is expected to remain largely unchanged.