

As Introduced

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H. B. No. 302

Representatives Workman, Plummer

To enact sections 1349.07, 1349.071, 1349.072,
1349.073, 1349.074, 1349.075, and 1349.076 of
the Revised Code to establish age verification
and parental consent requirements for certain
developers and application stores.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1349.07, 1349.071, 1349.072,
1349.073, 1349.074, 1349.075, and 1349.076 of the Revised Code
be enacted to read as follows:

Sec. 1349.07. As used in sections 1349.07 to 1349.076 of
the Revised Code:

(A) "Adult" means an account holder who is or is estimated
to be eighteen years of age or older.

(B) "Age category" means one of the following categories
based on age:

(1) Minor;

(2) Adult.

(C) "Age signal" means a signal that indicates an account
holder's age category and the methods by which that information
has been assured, which the account holder or the account

holder's parent has agreed to share. 20

(D) "Application" means a software program distributed 21
through an application distribution provider and that is 22
designed to be run on a connected device and to perform, or to 23
help the user perform, a specific task on the connected device. 24
"Application" does not include web sites, internet browser 25
extensions, or software with a primary purpose of extending the 26
functionality of an internet browser. 27

(E) "Application distributor" means a software application 28
that distributes applications from developers to users of a 29
connected device. "Application distributor" does not include 30
internet browsers. 31

(F) "Application distribution provider" means a person 32
that owns, operates, or controls an application distributor. 33

(G) "Connected device" means a smartphone, tablet, gaming 34
console, or virtual reality device that enables users to connect 35
to the internet and download software applications. 36

(H) "Covered application" means an application that is not 37
an application distributor and that provides a different 38
experience for adults than for minors, such as different account 39
types, content, features, or advertising or data practices 40
depending on the user's age. "Covered application" does not 41
include internet browsers or search engines. 42

(I) "Developer" means any person that creates, owns, or 43
controls an application. 44

(J) "Filter" means a generally accepted and commercially 45
reasonable technology used on a connected device that is capable 46
of preventing the connected device from accessing or displaying 47
obscene material, through internet browsers or search engines, 48

in accordance with prevailing industry standards, including 49
blocking known web sites primarily intended for the distribution 50
of obscene material via mobile data networks, wired internet 51
networks, and wireless internet networks. 52

(K) "Internet browser" means a software program that 53
allows users to access and display web sites on the internet. 54

(L) "Minor" means an account holder who is or is estimated 55
to be under the age of eighteen. 56

(M) "Obscene" and "material" have the same meanings as in 57
section 2907.01 of the Revised Code. 58

(N) "Operating system" means software that manages 59
applications on a connected device, including those 60
applications' access to the network, hardware, and other device 61
resources. 62

(O) "Operating system provider" means the company that 63
owns, operates, or controls the operating system on a connected 64
device. 65

(P) "Parent" includes a legal guardian. 66

(Q) "Search engine" means software that allows users to 67
input queries in order to perform searches of content on web 68
sites on the basis of a query in the form of a keyword, voice 69
request, phrase, or other input, and returns results in any 70
format in which information related to the query can be found. 71

(R) "Verifiable parental consent" means obtaining the 72
consent of a minor's parent in such a manner that is reasonably 73
calculated, in light of available technology, to ensure that the 74
person providing consent is the minor's parent. "Verifiable 75
parental consent" includes complying with the verifiable 76

<u>parental consent requirements of the "Children's Online Privacy</u>	77
<u>Protection Act of 1998," 15 U.S.C. 6501, et seq.</u>	78
<u>Sec. 1349.071. (A) An application distribution provider</u>	79
<u>shall do all of the following:</u>	80
<u>(1) Request that a prospective account holder declares the</u>	81
<u>prospective account holder's age when creating an account with</u>	82
<u>the application distribution provider;</u>	83
<u>(2) Provide an account holder who is not estimated to be</u>	84
<u>an adult with the opportunity to verify that the account holder</u>	85
<u>is an adult;</u>	86
<u>(3) Provide the developer of a covered application with</u>	87
<u>the technical ability to request an age signal in which the</u>	88
<u>account holder or the account holder's parent has agreed to</u>	89
<u>share that information;</u>	90
<u>(4) Provide the developer of a covered application with</u>	91
<u>the ability to prevent account holders who are not adults from</u>	92
<u>acquiring the developer's covered application from the</u>	93
<u>application distributor, at the developer's request;</u>	94
<u>(5) Provide the capability to developers to view relevant</u>	95
<u>parental controls for covered applications through a centralized</u>	96
<u>parental controls interface and offer the developer of a covered</u>	97
<u>application the technical ability to integrate parental controls</u>	98
<u>for the developer's covered application into that centralized</u>	99
<u>interface;</u>	100
<u>(6) Impose the same, substantially the same, or greater</u>	101
<u>restrictions and obligations on covered applications for which</u>	102
<u>the application distribution provider is also the developer as</u>	103
<u>it does on third-party covered applications or application</u>	104
<u>distribution providers in complying with sections 1349.07 to</u>	105

1349.076 of the Revised Code; 106

(7) Not use data collected from third parties in the 107
course of compliance with sections 1349.07 to 1349.076 of the 108
Revised Code to give the application distribution provider 109
preference relative to those of third parties, or to otherwise 110
use the data in an anti-competitive manner. 111

(B) An application distribution provider may use 112
commercially reasonable efforts to estimate the age category of 113
an account holder with a reasonable level of certainty 114
proportionate to the risks that arise from access to and use of 115
the relevant service or portion thereof. 116

Sec. 1349.072. (A) A developer of a covered application 117
shall do all of the following: 118

(1) Report to the application distribution provider 119
whether the developer's applications provide a different 120
experience for account holders that are adults than for account 121
holders that are minors; 122

(2) Provide tools to help parents support minors using the 123
developer's covered applications; 124

(3) Use commercially reasonable efforts to estimate the 125
age category of an account holder with a reasonable level of 126
certainty proportionate to the risks that arise from access to 127
and use of the covered application or portion thereof; 128

(4) Make a reasonable effort, proportionate to the risks, 129
to ensure that account holders who are minors cannot engage in 130
any activity that is restricted for adults only; 131

(5) Obtain verifiable parental consent prior to permitting 132
minor account holders to access content or features that the 133

developer has designated as unsuitable for minors without 134
parental guidance or supervision; 135

(6) Not deliver personalized advertising to minors. 136

(B) If the developer requests an age signal facilitated by 137
an application distributor, the developer shall do all of the 138
following: 139

(1) Request the minimum amount of information needed for 140
the purposes of complying with sections 1349.07 to 1349.076 of 141
the Revised Code; 142

(2) Not share the information obtained from the age signal 143
with third parties, unless necessary to implement safety 144
measures or privacy protections for minors, or unless otherwise 145
required to do so by law; 146

(3) Not use the age signal for any purpose beyond that 147
required by sections 1349.07 to 1349.076 of the Revised Code. 148

Sec. 1349.073. (A) An operating system provider shall do 149
all of the following: 150

(1) Request a prospective account holder to declare the 151
prospective account holder's age when creating an account with 152
the operating system provider; 153

(2) Provide an account holder who is estimated not to be 154
an adult with the opportunity to verify that the account holder 155
is an adult; 156

(3) Enable parents of a minor account holder to activate 157
and control a filter setting for the minor account holder; 158

(4) Provide internet browsers and search engines with the 159
technical ability to read a setting that indicates the state of 160

the filter. 161

(B) An operating system provider may use commercially 162
reasonable efforts to estimate the age category of an account 163
holder with a reasonable level of certainty proportionate to the 164
risks that arise from access to and use of the relevant service 165
or portion thereof. 166

Sec. 1349.074. An internet browser or search engine shall 167
do all of the following: 168

(A) Provide a filter that may be enabled by an account 169
holder or the account holder's parent; 170

(B) Where available, read the filter setting required by 171
division (A) (4) of section 1349.073 of the Revised Code; 172

(C) Activate the filter when enabled by an account holder 173
or the account holder's parent via the filter settings on a 174
connected device; 175

(D) Notify the account holder when the filter blocks 176
access to obscene material through the internet browser or 177
search engine. 178

Sec. 1349.075. (A) An application distribution provider or 179
operating system provider that makes a good faith effort to 180
comply with sections 1349.07 to 1349.076 of the Revised Code, 181
taking into consideration available technology, is not liable 182
for attempts to comply with those sections, including any of the 183
following with regard to the provision of an age signal: 184

(1) Any erroneous age signal; 185

(2) Any conduct by a developer of a covered application 186
that receives any age signal; 187

(3) Failing to provide an age signal due to any reasonable 188
technical limitations or outages that prevent the provision of 189
the age signal upon request; 190

(4) Not providing the age signal to developers that do not 191
adhere to reasonable safety standards and application 192
distributor policies. 193

(B) (1) The developer is solely liable for correctly 194
identifying whether an application is a covered application. No 195
application distributor is required to proactively identify 196
covered applications, and an application distributor is not 197
liable under sections 1349.07 to 1349.076 of the Revised Code in 198
cases in which a developer provides inaccurate information about 199
an application. 200

(2) The developer is not liable for an erroneous age 201
signal provided by an application distribution provider if the 202
developer makes a reasonable effort, taking into consideration 203
available technology, to properly use the age signal and carry 204
out other age assurance, if needed, as proportionate to the 205
risks presented to users by use of the developer's application. 206

Sec. 1349.076. (A) The attorney general may initiate an 207
action and seek a civil penalty of up to one thousand dollars 208
for each violation of sections 1349.07 to 1349.076 of the 209
Revised Code. 210

(B) The attorney general has exclusive authority to 211
enforce sections 1349.07 to 1349.076 of the Revised Code. 212

(C) Sections 1349.07 to 1349.076 of the Revised Code shall 213
not be construed to provide a private right of action with 214
respect to any act or practice described under those sections. 215

Section 2. Section 1 of this act takes effect one year 216

after the effective date of this section.

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