

As Introduced

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H. B. No. 547

Representatives Grim, McNally

**Cosponsors: Representatives Brennan, Brewer, Piccolantonio, Brownlee, Russo,
Upchurch, Jarrells, Somani, Miller, J.**

A BILL

To amend sections 4109.01 and 4109.06 and to enact 1
sections 1349.10, 4109.23, 4109.231, 4109.232, 2
and 4109.233 of the Revised Code to require 3
vloggers to hold in a trust account a portion of 4
compensation earned from any content featuring 5
minors and to name this act the Kid Influencer 6
Protection Act. 7

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

Section 1. That sections 4109.01 and 4109.06 be amended 8
and sections 1349.10, 4109.23, 4109.231, 4109.232, and 4109.233 9
of the Revised Code be enacted to read as follows: 10

Sec. 1349.10. (A) As used in this section, "account 11
holder," "bank," "corporate fiduciary," "online platform," 12
"operator," "payment account," "trust company," "vlog," "vlog 13
compensation," and "vlogging account" have the same meanings as 14
in section 4109.01 of the Revised Code. 15

(B) In accordance with division (C) of this section, the 16
operator of an online platform that provides vlog compensation 17

to a payment account shall provide the account holder with an 18
itemized statement that clearly indicates all of the following: 19

(1) Identifying information for each vlog that generated 20
vlog compensation, such as the vlog's internet address or any 21
other unique identifier used by the online platform; 22

(2) The dollar amount of vlog compensation generated by 23
each vlog; 24

(3) The account name and electronic mail address 25
associated with the vlogging account that published each vlog 26
that generated vlog compensation; 27

(4) That the operator of the online platform is providing 28
the vlog compensation in connection to the vlog or vlogs 29
identified in division (B)(1) of this section; 30

(5) That the operator of the online platform is providing 31
the vlog compensation for the benefit of the vlogging account, 32
even if the vlogging account and the payment account share the 33
same account name or electronic mail address. 34

(C) (1) An operator of an online platform that provides 35
vlog compensation to a payment account shall provide the 36
information required by division (B) of this section to the 37
account holder each time the operator disburses compensation to 38
that payment account. 39

(2) In addition, the operator of an online platform that 40
requires an account holder to initiate the withdrawal or 41
transfer of funds in a payment account to a bank, trust company, 42
or other corporate fiduciary shall provide the information 43
required by division (B) of this section at least once every 44
thirty days to the account holder of any payment account that 45
has accrued compensation during that thirty-day period. 46

Sec. 4109.01. As used in this chapter:

(A) "Account holder" means any person, family, proprietorship, partnership, or other corporate entity that owns or controls a payment account.

(B) "Bank" and "trust company" have the same meanings as in section 1101.01 of the Revised Code.

(C) "Corporate fiduciary" means any of the following:

(1) A trust company;

(2) The trust department of a bank, savings bank, savings and loan association, or foreign banking corporation qualified and licensed under section 1119.02 of the Revised Code to conduct operations in this state connected to its banking business;

(3) A national bank or federally chartered savings and loan association or savings bank that is authorized by the appropriate federal agency to accept and execute trusts and that has its principal place of business in this state;

(4) Any person that is required to and has received a license to exercise trust powers under section 1111.06 of the Revised Code.

(D) "Employ" means to permit or suffer to work.

~~(B)~~ (E) "Employer" means the state, its political subdivisions, and every person who employs any individual.

~~(C)~~ (F) "Enforcement official" means the director of commerce or the director's authorized representative, the director of education and workforce or the director's authorized representative, any school attendance officer, any probation

officer, the director of health or the director of health's 74
authorized representative, and any representative of a local 75
department of health. 76

(G) "Family" means a group of persons related by blood or 77
marriage, including civil partnerships, or whose close 78
relationships with each other is considered equivalent to a 79
family relationship by the individuals. 80

~~(D)~~ (H) "Minor" means any person less than eighteen years 81
of age. 82

(I) "Online platform" means any public-facing web site, 83
web application, or digital application, including a mobile 84
application. "Online platform" includes an advertising network, 85
mobile operating system, search engine, electronic mail service, 86
internet access service, or social media. 87

~~(E)~~ (J) "Operator" means any person, proprietorship, 88
partnership, or other corporate entity that operates an online 89
platform that disburses vlog compensation. 90

(K) "Payment account" means an account associated with an 91
online platform to which all of the following apply: 92

(1) The account is associated with at least one vlogging 93
account; 94

(2) The account holder, which may be the owner of an 95
associated vlogging account or another person, may use the 96
account to receive, manage, or transfer vlog compensation. 97

(L) "Publishing minor" means a minor who resides in this 98
state and, independently or together with one or more other 99
minors, does both of the following: 100

(1) Creates and publishes a vlog; 101

(2) Retains control of the vlogging account used to 102
publish that vlog. 103

(M) "Seasonal amusement or recreational establishment" 104
means both of the following: 105

(1) An amusement or recreational establishment that does 106
not operate for more than seven months in any calendar year; 107

(2) An amusement or recreational establishment whose 108
average receipts for any six months during the preceding 109
calendar year were not more than thirty-three and one-third per 110
cent of its average receipts for the other six months of that 111
calendar year. 112

(N) "Social media" means a service, platform, or web site 113
where users communicate with one another free of charge and 114
share media such as pictures, videos, music, and blogs. 115

(O) "Vlog" means video content shared on an online 116
platform in exchange for compensation. 117

(P) "Vlog compensation" means funds disbursed by the 118
operator of an online platform to a payment account in 119
connection with a vlog created and published by a publishing 120
minor. "Vlog compensation" includes disbursements based on 121
advertising, revenue sharing, subscriptions, view counts, tips, 122
memberships, or other similar metrics. 123

(Q) (1) "Vlogger" means an individual or family that 124
resides in Ohio and that creates video content that is published 125
as a vlog. 126

(2) "Vlogger" includes any proprietorship, partnership, 127
company, or other corporate entity assuming the name or identity 128
of a particular individual or family for the purposes of that 129

content creation. 130

(3) "Vlogger" does not include any person who is a minor. 131

(R) "Vlogging account" means any account, profile, or user 132
that publishes vlogs to an online platform. 133

(S) "Vlogging minor" means a natural person who meets all 134
of the following criteria during a calendar year: 135

(1) The person was a minor at any point in the calendar 136
year; 137

(2) (a) The person's likeness, name, or photograph is 138
included in at least thirty per cent of a vlogger's compensated 139
video content published within a thirty-day period during the 140
calendar year. 141

(b) Content percentage is measured by the percentage of 142
time the likeness, name, or photograph of the person visually 143
appears in, or is the subject of an oral narrative included in, 144
a video in comparison to the total length of the video. 145

(3) The person's likeness, name, or photograph is included 146
in videos published in the calendar year in question for which a 147
vlogger received compensation equal to or greater than one-tenth 148
of one cent per view. 149

Sec. 4109.06. (A) This chapter does not apply to the 150
following: 151

(1) Minors who are students working on any properly 152
guarded machines in the manual training department of any school 153
when the work is performed under the personal supervision of an 154
instructor; 155

(2) Students participating in a career-technical or STEM 156

program approved by the Ohio department of education and 157
workforce or students participating in any eligible classes 158
through the college credit plus program established under 159
Chapter 3365. of the Revised Code that include a state- 160
recognized pre-apprenticeship program that imparts the skills 161
and knowledge needed for successful participation in a 162
registered apprenticeship occupation course; 163

(3) A minor participating in a play, pageant, or concert 164
produced by an outdoor historical drama corporation, a 165
professional traveling theatrical production, a professional 166
concert tour, or a personal appearance tour as a professional 167
motion picture star, or as an actor or performer in motion 168
pictures or in radio or television productions in accordance 169
with the rules adopted pursuant to division (A) of section 170
4109.05 of the Revised Code; 171

(4) The participation, without remuneration of a minor and 172
with the consent of a parent or guardian, in a performance given 173
by a church, school, or academy, or at a concert or 174
entertainment given solely for charitable purposes, or by a 175
charitable or religious institution; 176

(5) Minors who are employed by their parents in 177
occupations other than occupations prohibited by rule adopted 178
under this chapter; 179

(6) Minors engaged in the delivery of newspapers to the 180
consumer; 181

(7) Minors who have received a high school diploma or a 182
certificate of attendance from an accredited secondary school or 183
a certificate of high school equivalence; 184

(8) Minors who are currently heads of households or are 185

parents contributing to the support of their children;	186
(9) Minors engaged in lawn mowing, snow shoveling, and	187
other related employment;	188
(10) Minors employed in agricultural employment in	189
connection with farms operated by their parents, grandparents,	190
or guardians where they are members of the guardians' household.	191
Minors are not exempt from this chapter if they reside in	192
agricultural labor camps as defined in section 3733.41 of the	193
Revised Code;	194
(11) Students participating in a program to serve as	195
precinct officers as authorized by section 3501.22 of the	196
Revised Code;	197
<u>(12) Vlogging minors, except as provided in sections</u>	198
<u>4109.23 and 4109.231 of the Revised Code.</u>	199
(B) Sections 4109.02, 4109.08, 4109.09, and 4109.11 of the	200
Revised Code do not apply to the following:	201
(1) Minors who work in a sheltered workshop operated by a	202
county board of developmental disabilities;	203
(2) Minors performing services for a nonprofit	204
organization where the minor receives no compensation, except	205
for any expenses incurred by the minor or except for meals	206
provided to the minor;	207
(3) Minors who are employed in agricultural employment and	208
who do not reside in agricultural labor camps.	209
(C) Division (D) of section 4109.07 of the Revised Code	210
does not apply to minors who have their employment hours	211
established as follows:	212

(1) A minor adjudicated to be an unruly child or 213
delinquent child who, as a result of the adjudication, is placed 214
on probation may either file a petition in the juvenile court in 215
whose jurisdiction the minor resides, or apply to the 216
superintendent or to the chief administrative officer who issued 217
the minor's age and schooling certificate pursuant to section 218
3331.01 of the Revised Code, alleging the restrictions on the 219
hours of employment described in division (D) of section 4109.07 220
of the Revised Code will cause a substantial hardship or are not 221
in the minor's best interests. Upon receipt of a petition or 222
application, the court, the superintendent, or the chief 223
administrative officer, as appropriate, shall consult with the 224
person required to supervise the minor on probation. If after 225
that consultation, the court, the superintendent, or the chief 226
administrative officer finds the minor has failed to show the 227
restrictions will result in a substantial hardship or that the 228
restrictions are not in the minor's best interests, the court, 229
the superintendent, or the chief administrative officer shall 230
uphold the restrictions. If after that consultation, the court, 231
the superintendent, or the chief administrative officer finds 232
the minor has shown the restricted hours will cause a 233
substantial hardship or are not in the minor's best interests, 234
the court, the superintendent, or the chief administrative 235
officer shall establish differing hours of employment for the 236
minor and notify the minor and the minor's employer of those 237
hours, which shall be binding in lieu of the restrictions on the 238
hours of employment described in division (D) of section 4109.07 239
of the Revised Code. 240

(2) Any minor to whom division (C)(1) of this section does 241
not apply may either file a petition in the juvenile court in 242
whose jurisdiction the person resides, or apply to the 243

superintendent or to the chief administrative officer who issued 244
the minor's age and schooling certificate pursuant to section 245
3331.01 of the Revised Code, alleging the restrictions on the 246
hours of employment described in division (D) of section 4109.07 247
of the Revised Code will cause a substantial hardship or are not 248
in the minor's best interests. 249

If, as a result of a petition or application, the court, 250
the superintendent, or the chief administrative officer, as 251
appropriate, finds the minor has failed to show such 252
restrictions will result in a substantial hardship or that the 253
restrictions are not in the minor's best interests, the court, 254
the superintendent, or the chief administrative officer shall 255
uphold the restrictions. If the court, the superintendent, or 256
the chief administrative officer finds the minor has shown the 257
restricted hours will cause a substantial hardship or are not in 258
the minor's best interests, the court, the superintendent, or 259
the chief administrative officer shall establish the hours of 260
employment for the minor and shall notify the minor and the 261
minor's employer of those hours. 262

(D) Section 4109.03, divisions (A) and (C) of section 263
4109.02, and division (B) of section 4109.08 of the Revised Code 264
do not apply to minors who are sixteen or seventeen years of age 265
and who are employed at a seasonal amusement or recreational 266
establishment. 267

(E) As used in this section, "certificate of high school 268
equivalence" means either: 269

(1) A statement issued by the department of education and 270
workforce that the holder of the statement has achieved the 271
equivalent of a high school education as measured by scores 272
obtained on a high school equivalency test approved by the 273

department pursuant to division (B) of section 3301.80 of the Revised Code;

(2) A statement issued by a primary-secondary education or higher education agency of another state that the holder of the statement has achieved the equivalent of a high school education as measured by scores obtained on a similar nationally recognized high school equivalency test.

Sec. 4109.23. (A) (1) A vlogger whose content features a vlogging minor shall maintain all of the following records for each calendar year:

(a) The name and documentary proof of the age of each vlogging minor the vlogger featured;

(b) The number of vlogs that featured a vlogging minor that generated compensation during a calendar year;

(c) The total number of minutes of video for which the vlogger received compensation during the reporting period;

(d) The total number of minutes each vlogging minor featured by the vlogger was featured in vlogs during the reporting period;

(e) The total compensation generated from vlogs featuring each vlogging minor during the reporting period;

(f) The amount deposited into a trust account for the benefit of the vlogging minor, as required by section 4109.231 of the Revised Code.

(2) Not later than the first day of March each year, a vlogger shall provide to each vlogging minor who was featured in a video published by the vlogger in the previous calendar year the information required in division (A) (1) of this section that

relates to that minor. 302

(B) A vlogging minor may commence a civil action against a 303
vlogger who fails to comply with division (A) of this section to 304
enforce the provisions of this section. 305

Sec. 4109.231. (A) As used in this section, "minimum 306
contribution" means one-half of the percentage of time the 307
likeness, name, or photograph of a vlogging minor was featured 308
in a vlog multiplied by the gross earnings for that vlog in a 309
calendar year. 310

(B) A vlogger shall compensate any vlogging minor featured 311
in the vlogger's vlogs as provided in this section. 312

(C) Not later than the first day of March each year, a 313
vlogger shall set aside a portion of gross earnings collected 314
during the previous calendar year on any vlog featuring the 315
likeness, name, or photograph of a vlogging minor in a trust 316
account according to the following distribution: 317

(1) Where only one vlogging minor is featured, an amount 318
equal to or greater than the minimum contribution; 319

(2) Where more than one vlogging minor is featured, an 320
amount equal to or greater than the minimum contribution shall 321
be divided equally and deposited into separate trust accounts 322
for the vlogging minors, regardless of differences in the 323
percentage of time the vlogging minors were featured. 324

(D) (1) A vlogger shall make the contributions required by 325
division (C) of this section for a vlogging minor for each 326
calendar year that the minor qualifies as a vlogging minor. 327

(2) This section shall not be construed as requiring a 328
vlogger to make contributions for any calendar year that a minor 329

did not qualify as a vlogging minor. 330

(E) A trust account required under this section shall, at 331
minimum, meet all of the following requirements: 332

(1) The trust shall be preserved for the benefit of the 333
minor and shall become available to the minor upon either of the 334
following: 335

(a) The minor reaches eighteen years of age. 336

(b) The minor is declared emancipated by a court of 337
competent jurisdiction. 338

(2) The funds in the account shall be available only to 339
the minor. 340

(3) The account shall be held by a bank, corporate 341
fiduciary, or trust company. 342

(4) The account shall meet the requirements of Chapter 343
5814. of the Revised Code. 344

(F) (1) If a vlogger knowingly or recklessly violates this 345
section, a vlogging minor may commence an action to enforce the 346
provisions of this section regarding the trust account. 347

(2) The court may award any of the following damages to a 348
vlogging minor who prevails in any action brought in accordance 349
with this section: 350

(a) Actual damages; 351

(b) Punitive damages; 352

(c) The costs of the action, including attorney's fees and 353
litigation costs. 354

(D) This section does not affect any other right or remedy 355

available under any other section of the Revised Code. 356

(E) Nothing in this section shall be construed to have any 357
effect on a party that is neither the vlogger nor the vlogging 358
minor in question. 359

Sec. 4109.232. (A) Annually, not later than the first day 360
of March, the account holder of a payment account that received 361
vlog compensation in the preceding year shall set aside any such 362
vlog compensation that meets all of the following conditions: 363

(1) The annual statement provided by the operator of the 364
online platform that disbursed the vlog compensation indicates 365
that the funds were generated in connection with one or more 366
vlogs published by a publishing minor; 367

(2) The itemized statement indicates that the funds were 368
disbursed for the benefit of a vlogging account belonging to a 369
publishing minor; 370

(3) The vlog compensation was not generated by a vlog 371
created or published by a vlogger. 372

(B) An account holder shall compensate a publishing minor 373
using amounts set aside under division (A) of this section by 374
doing one of the following: 375

(1) Transferring the amounts to the publishing minor in 376
accordance with Chapter 5814. of the Revised Code; 377

(2) Depositing the amounts into a trust account that meets 378
the requirements described in section 4109.231 of the Revised 379
Code. 380

(C) (1) A publishing minor is entitled to the amounts 381
described in division (A) of this section if the minor controls 382
the vlogging account and electronic mail address identified in 383

the itemized statement provided by the operator of the online 384
platform with payment or transfer of the vlog compensation. 385

(2) If two or more publishing minors collectively operate 386
a vlogging account, each of those publishing minors is entitled 387
to an equal share of vlog compensation generated by any vlog for 388
which that minor contributed. 389

(D) When a publishing minor reaches eighteen years of age, 390
an account holder whose payment account receives vlog 391
compensation to which a publishing minor is entitled under this 392
section shall do all of the following: 393

(1) Inform the publishing minor that the account holder's 394
payment account is receiving vlog compensation from the 395
publishing minor's vlogs; 396

(2) Permit the publishing minor to terminate the payment 397
account's association with the vlogging account; 398

(3) Inform the publishing minor that the account holder is 399
no longer required by law to set aside earnings from the 400
publishing minor's vlogs for that minor's benefit. 401

(F) If an account holder knowingly or recklessly violates 402
this section, a publishing minor may commence an action to 403
enforce the provisions of this section upon reaching eighteen 404
years of age regarding any vlog compensation received by the 405
account holder before that publishing minor reached eighteen 406
years of age. 407

(G) A publishing minor who is aggrieved by a violation of 408
this section may commence a cause of action to enforce this 409
section within the six months following the date the publishing 410
minor reaches eighteen years of age, or within six months after 411
the date the former publishing minor discovers the violation, 412

whichever is later. 413

(H) The court may award any of the following damages to a 414
publishing minor or a person who previously qualified as a 415
publishing minor who prevails in any action brought in 416
accordance with this section: 417

(1) Actual damages; 418

(2) Punitive damages; 419

(3) The costs of the action, including attorney's fees and 420
litigation costs. 421

Sec. 4109.233. (A) A person who qualified as a vlogging 422
minor during any calendar year who has reached the age of 423
eighteen or been declared emancipated by a court of competent 424
jurisdiction may request the permanent deletion of any vlog that 425
includes the likeness, name, or photograph of the person when 426
that person was a minor from any online platform that provided 427
compensation to the vlogger who published the vlog in question. 428

(B) An online platform shall take all reasonable steps to 429
comply with a request made under division (A) of this section. 430

Section 2. That existing sections 4109.01 and 4109.06 of 431
the Revised Code are hereby repealed. 432

Section 3. This act shall be known as the Kid Influencer 433
Protection Act. 434