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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To safeguard children by providing parents with clear and accurate information about the apps downloaded and used by their children and to ensure proper parental consent is achieved, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. JAMES introduced the following bill; which was referred to the Committee
on _____

A BILL

To safeguard children by providing parents with clear and accurate information about the apps downloaded and used by their children and to ensure proper parental consent is achieved, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “App Store Accountability Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. App store obligations.
- Sec. 4. App developer obligations.
- Sec. 5. Compliance.
- Sec. 6. Enforcement by the Federal Trade Commission.
- Sec. 7. Enforcement by States.
- Sec. 8. Safe harbor.
- Sec. 9. Preemption.
- Sec. 10. Severability.
- Sec. 11. Effective date.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) AGE CATEGORY.—The term “age category”
4 means the category of an individual based on their
5 age, including the following categories:

6 (A) ADULT.—An “adult” is such an indi-
7 vidual who has attained 18 years of age.

8 (B) TEENAGER.—A “teenager” is such an
9 individual who has attained 16 years of age but
10 has not attained 18 years of age.

11 (C) CHILD.—A “child” is such an indi-
12 vidual who has attained 13 years of age but has
13 not attained 16 years of age.

14 (D) YOUNG CHILD.—A “young child” is
15 such an individual who has not attained 13
16 years of age.

17 (2) AGE CATEGORY DATA.—The term “age cat-
18 egory data” means information that identifies the
19 age category of a user and is collected by a covered

1 app store provider and shared with an app devel-
2 oper.

3 (3) AGE RATING.—The term “age rating”
4 means a publicly displayed assessment of an app’s
5 appropriateness for different age categories.

6 (4) APP.—The term “app” means a software
7 application or electronic service that may be run or
8 directed by a user on a computer, mobile device, or
9 any other general purpose computing device.

10 (5) APP DEVELOPER.—The term “app devel-
11 oper” means any person that owns or controls an
12 app on the app store of a covered app store provider
13 and is available in the United States.

14 (6) APP STORE.—The term “app store” means
15 a publicly available website, software application, or
16 other electronic service that distributes and facili-
17 tates the download onto a mobile device of an app
18 from a third-party developer by a user of a com-
19 puter, mobile device, or any other general purpose
20 computing device.

21 (7) COMMISSION.—The term “Commission”
22 means the Federal Trade Commission.

23 (8) COVERED APP STORE PROVIDER.—The
24 term “covered app store provider” means any person
25 that owns or controls an app store available in the

1 United States and for which users in the United
2 States exceed 5,000,000.

3 (9) KNOW.—The term “know” means to have
4 actual knowledge or willful disregard.

5 (10) MINOR.—The term “minor” means an in-
6 dividual who has not attained 18 years of age.

7 (11) MOBILE DEVICE.—The term “mobile de-
8 vice” means a phone or general purpose tablet that
9 provides cellular or wireless connectivity, is capable
10 of connecting to the Internet, runs a mobile oper-
11 ating system, and is capable of running apps
12 through the mobile operating system.

13 (12) MOBILE OPERATING SYSTEM.—The term
14 “mobile operating system” means a set of software
15 that manages mobile device hardware resources, pro-
16 vides common services for mobile device programs,
17 controls memory allocation, and provides interfaces
18 for applications to access device functionality.

19 (13) PARENT.—The term “parent”, with re-
20 spect to a minor, means an adult with the legal right
21 to make decisions on behalf of the minor, includ-
22 ing—

23 (A) a natural parent;

24 (B) an adoptive parent;

25 (C) a legal guardian; or

1 (D) an individual with legal custody over
2 the minor.

3 (14) PARENTAL ACCOUNT.—The term “paren-
4 tal account” means an account with a covered app
5 store provider that is—

6 (A) verified to be established by an indi-
7 vidual who the app store provider has deter-
8 mined is at least 18 years of age through the
9 covered app store provider’s age verification
10 method or process; and

11 (B) affiliated with one or more account of
12 a user or prospective user who is a minor.

13 (15) PARENTAL CONSENT DISCLOSURE.—The
14 term “parental consent disclosure” means the fol-
15 lowing information that is provided to a parent be-
16 fore obtaining parental consent—

17 (A) a description of—

18 (i) the personal data collected by the
19 app from a user; and

20 (ii) the personal data shared by the
21 app with a third party;

22 (B) a description of the measures taken by
23 the app developer to protect the confidentiality
24 of the user’s personal data;

1 (C) if there is an age rating for the app or
2 an in-app purchase, the app's or in-app pur-
3 chase's age rating; and

4 (D) if there is a content description for the
5 app or in-app purchase, the app's or in-app
6 purchase's content description.

7 (16) PERSONAL DATA.—The term “personal
8 data” has the same meaning as the term “personal
9 information” as defined in section 1302 of the Chil-
10 dren's Online Privacy Protection Act (15 U.S.C.
11 6501).

12 (17) SIGNAL.—The term “signal” means age
13 bracketed data sent by a real-time secure application
14 programming interface or operating system that is
15 likely to be accessed by minors.

16 (18) SIGNIFICANT CHANGE.—The term “signifi-
17 cant change” means a material modification of an
18 app's terms of service or privacy policy that—

19 (A) changes the category of data collected
20 or stored;

21 (B) changes the category of data shared
22 with an unaffiliated third party that is not a
23 service provider or processor;

24 (C) alters the app's age rating or content
25 description;

1 (D) adds new monetization features, in-
2 cluding in-app purchases or advertisements; or

3 (E) changes the app’s user experience or
4 functionality in a manner that a reasonable in-
5 dividual would view as material.

6 (19) VERIFIABLE PARENTAL CONSENT.—The
7 term “verifiable parental consent” means authoriza-
8 tion that is provided—

9 (A) by a parental account;

10 (B) in response to a clear and conspicuous
11 parental content disclosure; and

12 (C) signifies a parent’s freely given, spe-
13 cific, informed, and unambiguous agreement.

14 **SEC. 3. APP STORE OBLIGATIONS.**

15 (a) IN GENERAL.—Each covered app store provider
16 shall—

17 (1) at the time an individual creates an account
18 with the covered app store provider—

19 (A) request age information from the indi-
20 vidual; and

21 (B) verify the individual’s age category
22 using a commercially available method or proc-
23 ess that is reasonably designed to ensure accu-
24 racy;

1 (2) if the age verification method or process de-
2 termines the individual is a minor—

3 (A) require the account to be affiliated
4 with a parental account; and

5 (B) obtain verifiable parental consent from
6 the holder of the affiliated parental account be-
7 fore allowing the minor to download or pur-
8 chase an app or make an in-app purchase;

9 (3) after receiving notice of a significant change
10 from an app developer—

11 (A) notify the user of a significant change;
12 and

13 (B) for a minor account, notify the holder
14 of the affiliated parental account and obtain a
15 new verifiable parental consent;

16 (4) provide to an app developer the user's age
17 category and the status of verified parental consent
18 if the user is a minor;

19 (5) notify an app developer when a parent re-
20 vokes verifiable parental consent;

21 (6) protect the confidentiality of personal data
22 related to age verification by—

23 (A) limiting its collection, processing, and
24 storage to what is strictly necessary to verify a

1 user's age, obtain verifiable parental consent, or
2 maintain compliance records; and

3 (B) safeguarding personal data related to
4 age verification by adopting reasonable adminis-
5 trative, technical, and physical safeguards to se-
6 cure the collection, processing, storage, and
7 transmission of this data, including through in-
8 dustry-standard encryption;

9 (7) if a covered app store provider displays an
10 age rating or description of an app's content, the
11 age rating and description must be clearly and
12 prominently displayed and be in plain and concise
13 language; and

14 (8) provide to an app developer the ability to
15 determine, in real time, the age category of any user
16 and, with respect to any user that is a minor, wheth-
17 er the covered app store provider has obtained
18 verifiable parental consent.

19 (b) RULES OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed—

21 (1) to prevent a covered app store provider
22 from taking reasonable measures to block, detect, or
23 prevent the distribution of unlawful or obscene mate-
24 rial to minors, to block or filter spam, to prevent

1 criminal activity, or to protect the security of an app
2 store or app;

3 (2) to require a covered app store provider to
4 disclose to an app developer information other than
5 such user's age category and, with respect to any
6 user that is a minor, whether the covered app store
7 provider has obtained verifiable parental consent in
8 accordance with this section;

9 (3) to allow a covered app store provider to use
10 any measures required by this section in a way that
11 is arbitrary, capricious, anti-competitive, or unlaw-
12 ful; or

13 (4) to affect or restrict the expression of polit-
14 ical, religious, or other viewpoints.

15 **SEC. 4. APP DEVELOPER OBLIGATIONS.**

16 (a) IN GENERAL.—An app developer shall—

17 (1) verify through a covered app store's method
18 or process the age category of the app developer's
19 users or potential users and, for a minor account,
20 whether verifiable parental consent has been ob-
21 tained;

22 (2) notify a covered app store provider of a sig-
23 nificant change to the app;

24 (3) request age category data or verifiable pa-
25 rental consent—

1 (A) at the time a potential app user
2 downloads or purchases an app;

3 (B) when the app developer implements a
4 significant change to the app; or

5 (C) to comply with an applicable law or
6 regulation.

7 (b) APP DEVELOPER REQUESTS.—An app developer
8 may request age category data or verifiable parental con-
9 sent—

10 (1) no more than once during each 12-month
11 period to verify the accuracy of user age verification
12 data or continued account use within the verified age
13 category;

14 (2) when there is reasonable suspicion of ac-
15 count transfer or misuse outside the verified age cat-
16 egory; or

17 (3) at the time a user creates a new account
18 with the app developer.

19 (c) PERMISSIBLE USES.—An app developer may use
20 age category data to—

21 (1) enforce any app developer-created age-re-
22 lated restrictions;

23 (2) ensure compliance with applicable laws and
24 regulations; and

1 (3) implement any app developer-created fea-
2 tures or defaults.

3 (d) RESTRICTIONS.—An app developer may not—

4 (1) enforce a contract or terms of service
5 against a minor unless the app developer has
6 verified through the covered app store provider that
7 verifiable parental consent has been obtained;

8 (2) knowingly misrepresent any material infor-
9 mation in the parental consent disclosure; or

10 (3) share age category data with an unaffiliated
11 third party that is not a service provider or proc-
12 essor.

13 (e) APP AGE RATING.—If an app developer provides
14 an age rating or description of an app’s content to a cov-
15 ered app store or user, the age rating or description must
16 be in plain and concise language.

17 (f) COVERED APP STORE PROVIDER SIGNAL.—

18 (1) IN GENERAL.—Each app developer shall use
19 a covered app store provider’s signal to determine
20 the age category of a user.

21 (2) RULE OF CONSTRUCTION.—Receipt of a
22 covered app store provider’s signal serves as actual
23 knowledge of a user’s age category.

24 **SEC. 5. COMPLIANCE.**

25 (a) GUIDANCE.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this Act, the Commission
3 shall issue guidance to assist covered app store pro-
4 viders and app developers in complying with the re-
5 quirements of this Act.

6 (2) LIMITATIONS.—

7 (A) NO CONFERRING OF RIGHTS OR BIND-
8 ING EFFECT.—Any guidance issued by the
9 Commission with respect to this Act shall not
10 confer any rights on any person, State, or local-
11 ity, nor shall such guidance operate to bind the
12 Commission or any person to the approach rec-
13 ommended in such guidance.

14 (B) BASIS OF ENFORCEMENT ACTIONS.—
15 In any enforcement action brought pursuant to
16 this Act, the Commission shall allege a specific
17 violation of a provision of this Act. The Com-
18 mission may not base an enforcement action on,
19 or execute a consent order based on, practices
20 that are alleged to be inconsistent with any
21 such guidelines, unless the practices allegedly
22 violate sections 3 or 4.

23 (b) MECHANISM TO CERTIFY COMPLIANCE.—

24 (1) IN GENERAL.—The Commission shall—

1 (A) establish a mechanism, in such form
2 and manner as the Commission determines is
3 appropriate, for any covered app store provider
4 to submit a request for the Commission to re-
5 view their policies relevant to the requirements
6 under section 3; and

7 (B) not later than 30 days after receiving
8 such a request—

9 (i) review such policies to determine
10 whether the covered app store provider
11 that submitted such request is compliant
12 with such requirements; and

13 (ii) if the Commission determines that
14 such provider is compliant with such re-
15 quirements and does not permit or is able
16 to quickly remedy any method of circum-
17 venting such requirements, submit to Con-
18 gress and make publicly available on the
19 website of the Commission a notice certi-
20 fying that such provider is compliant with
21 such requirements.

22 (2) NOTIFICATION OF SIGNIFICANT
23 CHANGES.—If a covered app store provider that the
24 Commission certifies is compliant with the require-
25 ments of section 3 makes a significant change to any

1 policy of such provider that is relevant to such re-
2 quirements, such provider shall notify the Commis-
3 sion of such change to ensure that the change does
4 not impact the certification of compliance under
5 paragraph (1).

6 (3) PERIOD OF ELIGIBILITY.—A certification of
7 compliance under paragraph (1) shall be valid for 1
8 year after the date of the issuance of such certifi-
9 cation.

10 (c) COMPLAINTS.—

11 (1) IN GENERAL.—The Commission shall estab-
12 lish a mechanism to receive complaints regarding the
13 compliance of any covered app store provider with
14 the requirements described in section 3.

15 (2) REVIEW.—The Commission shall regularly
16 review any complaints received through the mecha-
17 nism described in paragraph (1) and, if necessary,
18 evaluate the covered app store provider's certifi-
19 cation of compliance under subsection (b)(1).

20 **SEC. 6. ENFORCEMENT BY THE FEDERAL TRADE COMMIS-**
21 **SION.**

22 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—
23 A violation of this Act or a regulation promulgated there-
24 under shall be treated as a violation of a rule defining
25 an unfair or deceptive act or practice under section

1 18(a)(1)(B) of the Federal Trade Commission Act (15
2 U.S.C. 57a(a)(1)(B)).

3 (b) POWERS OF THE COMMISSION.—

4 (1) IN GENERAL.—The Commission shall en-
5 force this Act in the same manner, by the same
6 means, and with the same jurisdiction, powers, and
7 duties as though all applicable terms and provisions
8 of the Federal Trade Commission Act (15 U.S.C. 41
9 et seq.) were incorporated into and made a part of
10 this Act.

11 (2) PRIVILEGES AND IMMUNITIES.—Any person
12 who violates this Act or a regulation promulgated
13 thereunder shall be subject to the penalties and enti-
14 tled to the privileges and immunities provided in the
15 Federal Trade Commission Act (15 U.S.C. 41 et
16 seq.).

17 (3) AUTHORITY PRESERVED.—Nothing in this
18 Act shall be construed to limit the authority of the
19 Commission under any other provision of law.

20 **SEC. 7. ENFORCEMENT BY STATES.**

21 (a) IN GENERAL.—

22 (1) CIVIL ACTIONS.—In any case in which the
23 attorney general of a State has reason to believe
24 that an interest of the residents of that State has
25 been or is threatened or adversely affected by the

1 engagement of any person in a practice that violates
2 this Act, the State, as *parens patriae*, may bring a
3 civil action on behalf of the residents of the State in
4 a district court of the United States of appropriate
5 jurisdiction to—

6 (A) enjoin that practice;

7 (B) enforce compliance with the regulation;

8 (C) obtain damages, restitution, or other
9 compensation on behalf of residents of the
10 State; or

11 (D) obtain such other relief as the court
12 may consider to be appropriate.

13 (2) NOTICE.—

14 (A) IN GENERAL.—Before filing an action
15 under paragraph (1), the attorney general of
16 the State involved shall provide to the Commis-
17 sion—

18 (i) a written notice of that action; and

19 (ii) a copy of the complaint for that
20 action.

21 (B) EXEMPTION.—

22 (i) IN GENERAL.—Subparagraph (A)
23 shall not apply with respect to the filing of
24 an action by an attorney general of a State
25 under this subsection, if the attorney gen-

1 eral determines that it is not feasible to
2 provide the notice described in that sub-
3 paragraph before the filing of the action.

4 (ii) NOTIFICATION.—In an action de-
5 scribed in clause (i), the attorney general
6 of a State shall provide notice and a copy
7 of the complaint to the Commission at the
8 same time as the attorney general files the
9 action.

10 (b) INTERVENTION.—

11 (1) IN GENERAL.—On receiving notice under
12 subsection (a)(2), the Commission shall have the
13 right to intervene in the action that is the subject
14 of the notice.

15 (2) EFFECT OF INTERVENTION.—If the Com-
16 mission intervenes in an action under subsection (a),
17 it shall have the right—

18 (A) to be heard with respect to any matter
19 that arises in that action; and

20 (B) to file a petition for appeal.

21 (c) CONSTRUCTION.—For purposes of bringing any
22 civil action under subsection (a), nothing in this chapter
23 shall be construed to prevent an attorney general of a
24 State from exercising the powers conferred on the attorney
25 general by the laws of that State to—

- 1 (1) conduct investigations;
- 2 (2) administer oaths or affirmations; or
- 3 (3) compel the attendance of witnesses or the
- 4 production of documentary and other evidence.

5 (d) ACTIONS BY THE COMMISSION.—In any case in
6 which an action is instituted by or on behalf of the Com-
7 mission for a violation of this Act, no State may, during
8 the pendency of that action, institute an action under sub-
9 section (a) against any defendant named in the complaint
10 in that action for such violation.

11 (e) VENUE; SERVICE OF PROCESS.—

12 (1) VENUE.—Any action brought under sub-
13 section (a) may be brought in the district court of
14 the United States that meets applicable require-
15 ments relating to venue under section 1391 of title
16 28, United States Code.

17 (2) SERVICE OF PROCESS.—In an action
18 brought under subsection (a), process may be served
19 in any district in which the defendant—

20 (A) is an inhabitant; or

21 (B) may be found.

22 **SEC. 8. SAFE HARBOR.**

23 (a) IN GENERAL.—An app developer is deemed not
24 liable for a violation of this Act if the app developer dem-
25 onstrates it has—

1 (1) relied in good faith on age verification data
2 provided by a covered app store provider or it ob-
3 tained a signal from a covered app store provider
4 that indicates the user is a minor;

5 (2) complied with the requirements of section 4;
6 and

7 (3) reasonably conforms to widely accepted in-
8 dustry standards or best practices, or to standards
9 or best practices identified by the Commission, for
10 age ratings and app content descriptions and applies
11 those standards or best practices consistently and in
12 good faith.

13 (b) LIMITATIONS.—The safe harbor described in this
14 section applies only to actions brought under this Act and
15 does not limit the liability of an app developer under any
16 other applicable law.

17 **SEC. 9. PREEMPTION.**

18 (a) IN GENERAL.—No State or political subdivision
19 of a State may maintain, enforce, prescribe, or continue
20 in effect any law, rule, regulation, requirement, standard,
21 or other provision having the force and effect of law of
22 any State, or political subdivision of a State, related to
23 the provisions of this Act.

1 (b) RULE OF CONSTRUCTION.—Nothing in this sub-
2 section shall be construed as preempting, displacing, or
3 supplanting contract or tort law.

4 **SEC. 10. SEVERABILITY.**

5 If any provision of this Act, or the application thereof
6 to any person or circumstance, is held invalid, the remain-
7 der of this Act, and the application of such provision to
8 other persons not similarly situated or to other cir-
9 cumstances, shall not be affected by the invalidation.

10 **SEC. 11. EFFECTIVE DATE.**

11 Except as otherwise provided in this Act, this Act
12 shall take effect on the date that is 1 year after the date
13 of enactment of this Act.