

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 504

Introduced by Bosn, 25; at the request of the Governor; Ballard, 21;
Bostar, 29; Prokop, 27.

Read first time January 21, 2025

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to consumer protections; to adopt the Age-
- 2 Appropriate Online Design Code Act; to provide an operative date;
- 3 and to provide severability.
- 4 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 12 of this act shall be known and may be
2 cited as the Age-Appropriate Online Design Code Act.

3 **Sec. 2.** For purposes of the Age-Appropriate Online Design Code Act:

4 (1) Actual knowledge includes all information and inferences known
5 to the covered online service relating to the age of the individual,
6 including, but not limited to, self-identified age, and any age the
7 covered online service has attributed or associated with the individual
8 for any purpose, including marketing, advertising, or product
9 development;

10 (2) Child or children means an individual or individuals younger
11 than thirteen years of age;

12 (3) Compulsive usage means the persistent and repetitive use of a
13 covered online service that substantially limits one or more major life
14 activities of a user, including sleeping, eating, learning, reading,
15 concentrating, communicating, or working;

16 (4) Covered design feature means any feature or component of a
17 covered online service that will encourage or increase the frequency,
18 time spent, or activity of a user on the covered online service and
19 includes, but is not limited to:

20 (a) Infinite scroll;

21 (b) Rewards or incentives for frequency of visits or time spent on
22 the covered online service;

23 (c) Notifications or push alerts;

24 (d) In-game purchases; or

25 (e) Appearance altering filters;

26 (5)(a) Covered online service means a sole proprietorship, a limited
27 liability company, a corporation, an association, or any other legal
28 entity that owns, operates, controls, or provides an online service that:

29 (i) Conducts business in this state;

30 (ii) Is reasonably likely to be accessed by minors;

31 (iii) Alone, or jointly with its affiliates or subsidiaries or

1 parent companies, determines the purposes and means of the processing of
2 consumers' personal data; and

3 (iv) Either:

4 (A) Has annual gross revenue in excess of twenty-five million,
5 adjusted every odd-numbered year to reflect changes in the Consumer Price
6 Index;

7 (B) Annually buys, receives, sells, or shares the personal data of
8 fifty thousand or more consumers, households, or devices, alone or in
9 combination with its affiliates or subsidiaries; or

10 (C) Derives at least fifty percent of its annual revenue from the
11 sale or sharing of consumers' personal data.

12 (b) A covered online service includes:

13 (i) An entity that controls or is controlled by a business that
14 shares a name, service mark, or trademark that causes a reasonable
15 consumer to understand that two or more entities are commonly owned; and

16 (ii) A joint venture or partnership composed of businesses in which
17 each has at least a forty percent interest in the joint venture or
18 partnership;

19 (6) Known to be a minor means actual knowledge that the covered
20 online service is reasonably likely to be accessed by minors;

21 (7) Minor means an individual younger than eighteen years of age;

22 (8) Online service means any service, product, or feature that is
23 accessible to the public via the Internet, including a website or
24 application. An online service includes a digital service, product, or
25 feature that is based in whole or in part on artificial intelligence. An
26 online service does not include any of the following:

27 (a) A telecommunications service as defined in 47 U.S.C. 153;

28 (b) A broadband internet access service as defined in 47 C.F.R.
29 8.1(b); or

30 (c) The sale, delivery, or use of a physical device;

31 (9) Parent has the same meaning as in the federal Children's Online

1 Privacy Protection Act of 1998, 15 U.S.C. 6501 et seq., and the Federal
2 Trade Commission rules implementing such act;

3 (10) Personal data means any information, including derived data and
4 unique identifiers, that is linked or reasonably linkable, alone or in
5 combination with other information, to an identified or identifiable
6 individual or to a device that identifies, is linked to, or is reasonably
7 linkable to one or more identified or identifiable individuals in a
8 household. Personal data does not include publicly available data;

9 (11) Personalized recommendation system means a fully or partially
10 automated system used to suggest, promote, or rank content, including
11 other users, hashtags, or posts, based on the personal data of users;

12 (12) Precise geolocation information means any data that identifies
13 within a radius of one thousand eight hundred fifty feet a user's present
14 or past location or the present or past location of a device that links
15 or is linkable to a user or any data that is derived from a device that
16 is used or intended to be used to locate a user within a radius of one
17 thousand eight hundred fifty feet by means of technology that includes a
18 global positioning system that provides latitude and longitude
19 coordinates. Precise geolocation information does not include the content
20 of communications or any data generated or connected to advanced utility
21 metering infrastructure systems or equipment for use by a utility;

22 (13) Process means to perform an operation or set of operations by
23 manual or automated means on personal data. Process includes collecting,
24 using, storing, disclosing, sharing, analyzing, deleting, or modifying
25 personal data;

26 (14) Profile means any form of automated processing of personal data
27 to evaluate, analyze, or predict certain aspects relating to a user,
28 including a user's economic situation, health, personal preferences,
29 interests, reliability, behavior, location, or movements;

30 (15) Publicly available data means data (a) that is lawfully made
31 available from federal, state, or local government records, (b) that a

1 business has a reasonable basis to believe is lawfully made available to
2 the general public by the individual or from widely distributed media, or
3 (c) that is made available by a person to whom the individual has
4 disclosed the data if the individual has not restricted the data to a
5 specific audience. Publicly available data does not mean biometric data
6 collected by a covered online service about a user without the user's
7 knowledge;

8 (16) Reasonably likely to be accessed by minors means:

9 (a) It is reasonable to expect that the covered online service would
10 be accessed by an individual minor or by minors, based on satisfying
11 either of the following criteria:

12 (b) The covered online service has actual knowledge that a
13 particular consumer is a minor; or

14 (c) The covered online service is directed to children;

15 (17) Sensitive personal data means personal data that reveals:

16 (a) An individual's social security, driver's license, state
17 identification card, or passport number;

18 (b) An individual's account log-in, financial account, debit card,
19 or credit card number in combination with any required security or access
20 code, password, or credentials allowing access to an account;

21 (c) An individual's precise geolocation information;

22 (d) An individual's racial or ethnic origin, citizenship or
23 immigration status, religious or philosophical beliefs, or union
24 membership;

25 (e) The contents of an individual's mail, email, text messages, or
26 other forms of communications that perform similar functions, including
27 shared images and videos, unless the business is the intended recipient
28 of the communication;

29 (f) An individual's genetic data;

30 (g) Biometric data that uniquely identifies an individual,
31 including, but not limited to, personal images or physical

1 characteristics;

2 (h) Personal data concerning an individual's health; or

3 (i) Personal data revealing sex, sex life, sexual orientation,
4 gender, or gender identity;

5 (18) Targeted advertising means displaying advertisements to an
6 individual where the advertisement is selected based on personal data
7 obtained or inferred from that individual's activities over time and
8 across nonaffiliated websites or online applications to predict the
9 individual's preferences or interest. Targeted advertising does not
10 include:

11 (a) Advertisements based on activities within a covered online
12 service's own Internet websites or online applications;

13 (b) Advertisements based on the context of an individual's current
14 search query, visit to an Internet website, or use of an online
15 application;

16 (c) Advertisements directed to an individual in response to the
17 individual's request for information or feedback; or

18 (d) Processing personal data solely to measure or report advertising
19 frequency, performance, or reach; and

20 (19) User means, with respect to a covered online service, an
21 individual who registers an account or creates a profile on the covered
22 online service.

23 **Sec. 3.** (1) The Age-Appropriate Online Design Code Act does not
24 apply to:

25 (a) A federal, state, tribal, or local government entity in the
26 ordinary course of its operations;

27 (b) Personal data subject to a statute or regulation that is
28 controlled by a covered online service that is required to comply with:

29 (i) Title V of the federal Gramm-Leach-Bliley Act;

30 (ii) The federal Health Information Technology for Economic and
31 Clinical Health Act; or

1 (iii) Regulations promulgated under section 264 of the Health
2 Insurance Portability and Accountability Act of 1996; and

3 (c) Information, including, but not limited to, personal data,
4 collected as part of a clinical trial subject to the federal policy for
5 the protection of human subjects in accordance with:

6 (i) Good clinical practice guidelines issued by the International
7 Council for Harmonization of Technical Requirements for Pharmaceuticals
8 for Human Use; or

9 (ii) Human subject protection requirements of the federal Food and
10 Drug Administration.

11 (2) The requirements of the Age-Appropriate Online Design Code Act
12 are in addition to and shall not limit or restrict in any way the
13 application of other laws, including, but not limited to, statutes, rules
14 and regulations, and the common law of Nebraska.

15 (3) In the event of a conflict between the Age-Appropriate Online
16 Design Code Act and one or more other laws, the law that affords the
17 greatest protection from harm to minors shall control.

18 **Sec. 4.** (1) Except as provided in subsections (2) and (3) of this
19 section, a covered online service is required to exercise reasonable care
20 in the use of personal data of a user and in the design and
21 implementation of such covered online service, including, but not limited
22 to, covered design features, to prevent the following harms:

23 (a) Compulsive usage of the covered online service;

24 (b) Severe psychological harm, including but not limited to anxiety
25 and depression;

26 (c) Severe emotional distress;

27 (d) Highly offensive intrusions on reasonable privacy expectations;

28 (e) Identity theft;

29 (f) Discrimination on the basis of race, ethnicity, sex, disability,
30 sexual orientation, gender identity, gender expression, or national
31 origin; and

1 (g) Material financial or physical injury.

2 (2) Harms described in subsection (1) of this section are limited to
3 those for which liability is permitted under 47 U.S.C. 230.

4 (3) Nothing in this section shall be construed to require a covered
5 online service to prevent or preclude any user from deliberately and
6 independently searching for or specifically requesting content, or
7 accessing resources and information regarding the prevention or
8 mitigation of the harms described in this section.

9 **Sec. 5.** (1) A covered online service shall provide users with
10 accessible and easy-to-use tools that accomplish the following:

11 (a) Limit the ability of other users or visitors to communicate with
12 the user;

13 (b) Prevent other individuals from viewing the personal data of the
14 user;

15 (c) Prevent artificial intelligence from utilizing personal data to
16 communicate or interact with the user;

17 (d) Control the operation of all design features, including, but not
18 limited to, all covered design features, that are unnecessary in order to
19 provide the covered online service by allowing users to opt out of the
20 use of all design features or categories of design features;

21 (e) Control personalized recommendation systems by allowing users to
22 opt in to a chronological feed or by preventing categories of content
23 from being recommended;

24 (f) Control the use of in-game purchases or other transactions by
25 allowing users to opt out of all such purchases and transactions or to
26 place limits on such purchases and transactions; and

27 (g) Restrict the sharing of the precise geolocation information of
28 the user and provide notice regarding tracking of the user's precise
29 geolocation information.

30 (2) A covered online service shall provide a user with accessible
31 and easy to use options to limit the amount of time the user spends on

1 the covered online service.

2 (3) A covered online service shall establish default settings
3 applicable to an individual the covered online service knows is a minor
4 for the safeguards described in subsection (1) of this section at the
5 option or level that provides the highest protection available for the
6 safety of the individual.

7 **Sec. 6.** (1) A covered online service shall only collect and use the
8 minimum amount of a user's personal data necessary to provide the
9 specific elements of an online service with which a user has knowingly
10 engaged. Such personal data may not be used for reasons other than those
11 for which it was collected.

12 (2) A covered online service that collects personal data of a user
13 for age verification or estimation cannot use such personal data for
14 other purposes and shall delete such personal data after use for age
15 verification.

16 (3) A covered online service shall only retain the personal data of
17 a user as long as necessary to provide the specific elements of an online
18 service with which a user has knowingly engaged.

19 (4) A covered online service may not facilitate targeted advertising
20 to an individual the covered online service knows is a minor.

21 (5) A covered online service shall provide an obvious sign to a user
22 when precise geolocation information is being collected or used.

23 (6) The use of notifications and push alerts to an individual the
24 covered online service knows is a minor is prohibited between the hours
25 of 10 p.m. and 6 a.m. and between the hours of 8 a.m. and 4 p.m. on week
26 days during the school year in the minor's local time zone.

27 (7) A covered online service shall not profile an individual the
28 covered online service knows is a minor unless profiling is necessary to
29 provide a covered online service requested by such minor, and only with
30 respect to the aspects of the covered online service with which a minor
31 is actively and knowingly engaged.

1 (8) A covered online service shall ensure that settings for the
2 protections required pursuant to this section are set at the highest
3 protection available for the safety of the individual by default.

4 (9) If a covered online service allows parental monitoring, the
5 covered online service shall provide an obvious signal to the user when
6 such user is being monitored.

7 **Sec. 7.** (1) A covered online service shall treat all users of a
8 covered online service as a minor unless the covered online service has
9 actual knowledge that the user is not a minor.

10 (2) A covered online service shall provide parents with tools to
11 help parents protect and support minors using the covered online
12 services. Such parental tools shall be on by default for an individual
13 the covered online service knows is a child.

14 (3) A covered online service shall provide parents the ability to do
15 the following for an individual the covered online service knows is a
16 child or minor, as applicable:

17 (a) Manage the child's privacy and account settings in a manner that
18 allows parents to:

19 (i) View the child's account settings; and

20 (ii) Change and control privacy and account settings of the child;

21 (b) Restrict purchases and financial transactions of the minor; and

22 (c) Enable parents to view the total time spent on a covered online
23 service by a user the covered online service knows is a child and place
24 reasonable limits on such child's use of the covered online service.

25 Among such protections, a covered online service shall offer parents the
26 ability to restrict a child's use of the covered online service during
27 times of day specified by the parents, including during school hours and
28 at night.

29 (4) A covered online service shall notify a user when any of the
30 tools described in this section are in effect and describe what settings
31 have been applied.

1 **Sec. 8.** A covered online service shall establish mechanisms to
2 report harms to minors on covered online services.

3 **Sec. 9.** (1) A covered online service is prohibited from
4 facilitating ads for prohibited products, such as narcotic drugs, tobacco
5 products, gambling, and alcohol, to individuals the covered online
6 service knows are minors.

7 (2) A covered online service is prohibited from using dark patterns
8 or any other similar practices to subvert or impair user autonomy,
9 decision-making, or choice. Such dark patterns shall constitute a
10 deceptive trade practice under the Uniform Deceptive Trade Practices Act
11 and, in addition to any remedies or penalties available under the Age-
12 Appropriate Online Design Code Act, shall be subject to any remedies or
13 penalties available for a violation under the Uniform Deceptive Trade
14 Practices Act.

15 **Sec. 10.** (1) Each covered online service that utilizes personalized
16 recommendation systems is required to describe in its terms and
17 conditions, in a clear, conspicuous and easy to understand manner, how
18 such systems are used to provide information to minors and information
19 regarding how minors or their parents can opt out of or control such
20 systems.

21 (2) A covered online service shall provide clear, conspicuous, easy
22 to understand, and comprehensive information in a prominent location
23 describing the design safety for minors, the privacy protections for
24 minors, and the tools for parents that the covered online service has
25 adopted. Such disclosure shall also include a clear, conspicuous, and
26 easy to understand explanation as to how minors and parents may utilize
27 such design safety measures, privacy protections, and tools.

28 **Sec. 11.** (1) A covered online service shall annually issue a public
29 report, prominently posted to its website, prepared by an independent
30 third-party auditor that contains the following information:

31 (a) A detailed description of the covered online service as it

1 pertains to minors, including its covered design features, its use of
2 personal data, and its business practices. Each report shall include the
3 following information, categorized by age group if appropriate:

4 (i) The purpose of the covered online service;

5 (ii) The extent to which the covered online service is likely to be
6 accessed by minors;

7 (iii) An accounting of the number of users the covered online
8 service knows to be minors in the state and an accounting of how much
9 time such users, separated by age group, spend on the covered online
10 service;

11 (iv) An accounting of the total number and types of reports made
12 pursuant to section 8 of this act and an assessment of how such harms
13 were addressed;

14 (v) Whether, how, and for what purpose the covered online service
15 collects or processes the personal data of minors;

16 (vi) Whether, how, and for what purpose the covered online service
17 collects or processes the sensitive personal data of minors;

18 (vii) The design safety features for minors, the privacy protections
19 for minors, and the tools for parents that the covered online service has
20 adopted;

21 (viii) Whether and how the covered online service uses covered
22 design features;

23 (ix) The covered online service's process for handling data access,
24 deletion, and correction requests for the data of a minor;

25 (x) Age verification or estimation methods used by the covered
26 online service; and

27 (xi) Whether and how the covered online service utilizes algorithms.

28 (2) An independent third-party auditor that prepares a report
29 required pursuant to this section shall follow inspection and
30 consultation practices designed to ensure that such report is
31 comprehensive and accurate. Any such report shall be prepared in

1 consultation with experts on minors' use of covered online services.

2 (3) A covered online service shall provide an independent third-
3 party auditor that prepares a report required under this section full and
4 complete cooperation and access to information and operations required to
5 ensure that the report is comprehensive and accurate.

6 **Sec. 12.** (1) The Attorney General shall enforce the Age-Appropriate
7 Online Design Code Act and may investigate compliance with the act. The
8 Attorney General may adopt and promulgate rules and regulations to carry
9 out the act.

10 (2) Each covered online service shall designate one or more officers
11 of the company as responsible for the covered online service's compliance
12 with the Age-Appropriate Online Design Code Act.

13 (3) A covered online service in violation of the Age-Appropriate
14 Online Design Code Act may be liable for a civil penalty not to exceed
15 fifty thousand dollars for each violation.

16 **Sec. 13.** This act becomes operative on January 1, 2026.

17 **Sec. 14.** If any section in this act or any part of any section is
18 declared invalid or unconstitutional, the declaration shall not affect
19 the validity or constitutionality of the remaining portions.