

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Regulatory Reform &
 2 Economic Development Subcommittee
 3 Representative McFarland offered the following:

Amendment (with title amendment)

Between lines 1025 and 1026, insert:

Section 4. Section 501.1735, Florida Statutes, is created
to read:

501.1735 Protection of Children in Online Spaces.-

(1) DEFINITIONS.- As used in this section, the term:

(a) "Child" or "Children" means a consumer or consumers
who are under 18 years of age.

(b) "Dark pattern" means a user interface designed or
manipulated with the substantial effect of subverting or
impairing user autonomy, decision-making or choice and includes,

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16 but is not limited to, any practice the Federal Trade Commission
17 refers to as a "dark pattern."

18 (c) "Online platform" includes social media platforms as
19 defined in s. 112.23 and online gaming platforms.

20 (d) "Personal information" means the same as in s.
21 501.173.

22 (e) "Profile" or "profiling" means any form of automated
23 processing performed on personal information to evaluate,
24 analyze or predict personal aspects related to a child's
25 economic situation, health, personal preferences, interests,
26 reliability, behavior, location or movements.

27 (f) "Precise geolocation data" means the same as in s.
28 501.173.

29 (g) "Substantial harm or privacy risk to children" means
30 the processing of personal information in a manner that may
31 result in any reasonably foreseeable substantial physical
32 injury, economic injury, or offensive intrusion into the privacy
33 expectations of a reasonable child under the circumstances,
34 including:

35 1. Mental health disorders or associated behaviors,
36 including the promotion or exacerbation of self-harm, suicide,
37 eating disorders, and substance use disorders;

38 2. Patterns of use that indicate or encourage addiction-
39 like behaviors;

40 3. Physical violence, online bullying, and harassment;

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41 4. Sexual exploitation, including enticement, sex
42 trafficking, and sexual abuse and trafficking of online sexual
43 abuse material;

44 5. Promotion and marketing of narcotic drugs (as defined
45 in section 102 of the Controlled Substances Act (21 U.S.C.
46 802)), tobacco products, gambling, or alcohol; and

47 6. Predatory, unfair, or deceptive marketing practices, or
48 other financial harms.

49 (2) An online platform that provides an online service,
50 product, game, or feature likely to be predominantly accessed by
51 children may not:

52 (a) Process the personal information of any child if the
53 online platform has actual knowledge or willfully disregards
54 that the processing may result in substantial harm or privacy
55 risk to children.

56 (b) Profile a child unless both of the following criteria
57 are met:

58 1. The online platform can demonstrate it has appropriate
59 safeguards in place to protect children.

60 2. Either of the following is true:

61 a. Profiling is necessary to provide the online service,
62 product, or feature requested and only with respect to the
63 aspects of the online service, product, or feature with which
64 the child is actively and knowingly engaged.

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65 b. The online platform can demonstrate a compelling reason
66 that profiling does not pose a substantial harm or privacy risk
67 to children.

68 (c) Collect, sell, share, or retain any personal
69 information that is not necessary to provide an online service,
70 product, or feature with which a child is actively and knowingly
71 engaged, or as described below, unless the online platform can
72 demonstrate a compelling reason that the collecting, selling,
73 sharing, or retaining of the personal information does not pose
74 a substantial harm or privacy risk to children likely to
75 routinely access the online service, product, or feature.

76 (d) Use personal information of a child for any reason
77 other than a reason for which that personal information was
78 collected, unless the online platform can demonstrate a
79 compelling reason that use of the personal information does not
80 pose a substantial harm or privacy risk to children.

81 (e) Collect, sell, or share any precise geolocation data
82 of children unless the collection of that precise geolocation
83 data is strictly necessary for the online platform to provide
84 the service, product, or feature requested and then only for the
85 limited time that the collection of precise geolocation data is
86 necessary to provide the service, product, or feature.

87 (f) Collect any precise geolocation data of a child
88 without providing an obvious sign to the child for the duration

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89 of that collection that precise geolocation data is being
90 collected.

91 (g) Use dark patterns to lead or encourage children to
92 provide personal information beyond what is reasonably expected
93 to provide that online service, product, game, or feature, to
94 forego privacy protections, or to take any action that the
95 online platform has actual knowledge or willfully disregards may
96 result in substantial harm or privacy risk to children.

97 (h) Use any personal information collected to estimate age
98 or age range for any other purpose or retain that personal
99 information longer than necessary to estimate age. Such age
100 estimate shall be proportionate to the risks and data practice
101 of an online service, product, or feature.

102 (3) If an online platform processes personal information
103 pursuant to this section, the online platform bears the burden
104 of demonstrating that such processing is not in violation of
105 this section.

106 (4) An online platform that violates subsection (2) is
107 subject to enforcement actions in s. 501.173, and such
108 enforcement actions are the exclusive remedy. This section does
109 not establish a private cause of action.

110 -----
111 -----

112 **T I T L E A M E N D M E N T**

113 Between lines 73 and 74, insert:

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114 | creates s. 501.1735, F.S.; providing operating requirements for
115 | certain online platforms who are likely to be predominantly
116 | accessed by children; providing enforcement;