By Senator Calatayud

38-01471-26   20261722__

1   A bill to be entitled
2   An act relating to application stores; providing a
3   short title; creating s. 501.1733, F.S.; defining
4   terms; requiring an app store provider to take certain
5   steps to verify the ages of individuals who create or
6   who have existing accounts with the app store
7   provider; providing parental consent requirements for
8   accounts created or held by minors; providing
9   notification and consent requirements for apps that
10   have been significantly changed; requiring the app
11   store provider to provide age category data and
12   parental consent information to developers upon
13   request; requiring app store providers to take certain
14   steps to protect specified personal information;
15   prohibiting app store providers from enforcing
16   contracts or terms of service against a minor under
17   certain circumstances, knowingly misrepresenting
18   certain information, or sharing age category data;
19   requiring developers to take certain steps to verify
20   age information and to comply with certain measures;
21   providing limits on and requirements for developers
22   requesting age data; prohibiting developers from
23   enforcing contracts or terms of service against a
24   minor under certain circumstances, knowingly
25   misrepresenting certain information, or sharing age
26   category data; authorizing minors, or the parents of
27   minors, to bring civil actions against app store
28   providers or developers for violations of the act;
29   authorizing courts to award prevailing plaintiffs with

38-01471-26   20261722__

30   specified damages, fees, and costs; providing that a

31   violation of this act is an unfair and deceptive trade

32   practice; authorizing the Department of Legal Affairs

33   to bring an action against app store providers and

34   developers; providing jurisdiction; requiring the

35   department to adopt specified rules; providing

36   applicability; providing construction; providing for

37   severability; providing an effective date.

38

39 Be It Enacted by the Legislature of the State of Florida:

40

41   Section 1. This act may be cited as the "App Store

42 Accountability Act."

43   Section 2. Section 501.1733, Florida Statutes, is created

44 to read:

45   501.1733 Application stores.—

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

47   (a) "Account holder" means an individual associated with a

48 mobile device.

49   (b) "Age category" means one of the following categories of

50 individuals, based on age:

51   1. A child, which means an individual who is under 13 years

52 of age;

53   2. A younger teenager, which means an individual who is at

54 least 13 years of age and under 16 years of age;

55   3. An older teenager, which means an individual who is at

56 least 16 years of age and under 18 years of age; or

57   4. An adult, which means an individual who is at least 18

58 years of age.

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

38-01471-26   20261722__

59   (c) "Age category data" means information about an account

60   holder's age category collected by an app store provider and

61   shared with a developer.

62   (d) "Age rating" means one or more classifications that

63   assess the suitability of an app's content and functions for

64   different age categories.

65   (e) "App" means a software application or electronic

66   service that a user may run or direct on a mobile device. The

67   term includes preinstalled applications.

68   (f) "App store" means any publicly available website,

69   software application, or electronic service that allows an

70   account holder to download an app from a third-party developer

71   onto a mobile device.

72   (g) "App store provider" means a person that owns,

73   operates, or controls an app store.

74   (h) "Content description" means a description of the

75   specific content elements or functions that informed an app's

76   age rating.

77   (i) "Department" means the Department of Legal Affairs.

78   (j) "Developer" means a person that owns or controls an app

79   made available through an app store or an app preinstalled onto

80   a mobile device.

81   (k) "Knowingly" mean to act with actual knowledge or to act

82   with knowledge fairly inferred based on objective circumstances.

83   (l) "Minor" means, unless the individual is married or

84   legally emancipated, an individual under 18 years of age.

85   (m) "Minor account" means an account with an app store

86   provider, established by an individual who is a minor, which is

87   affiliated with a parent account.

38-01471-26   20261722__

88   (n) "Mobile device" means a phone or general-purpose tablet

89 that:

90   1. Provides cellular or wireless connectivity;

91   2. Is capable of connecting to the Internet;

92   3. Runs a mobile operating system; and

93   4. Is capable of running apps through the mobile operating

94 system.

95   (o) "Mobile operating system" means software that:

96   1. Manages mobile device hardware resources;

97   2. Provides common services for mobile device programs;

98   3. Controls memory allocation; and

99   4. Provides interfaces for apps to access device

100 functionality.

101   (p) "Parent" means, with respect to a minor, an individual

102 reasonably believed to be a parent, a legal guardian, an

103 individual with legal custody, or any other individual who has

104 the legal authority to make decisions on behalf of the minor

105 under applicable state law.

106   (q) "Parent account" means an account with an app store

107 provider which:

108   1. Is verified to be established by an individual who the

109 app store provider has determined is at least 18 years of age or

110 married or emancipated through the app store provider's age

111 verification methods; and

112   2. May be affiliated with one or more minor accounts.

113   (r) "Parental consent disclosure" includes the following

114 information:

115   1. If the app store provider has an age rating for the app

116 or in-app purchase, the app's or in-app purchase's age rating;

Page 4 of 13

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

38-01471-26   20261722__

117   2. If the app store provider has a content description for
118   the app or in-app purchase, the app's or in-app purchase's
119   content description;
120   3. A description of:
121   a. The personal data collected by the app from an account
122   holder in compliance with, if applicable, part V of this
123   chapter; and
124   b. The personal data shared by the app and the methods
125   implemented by the developer to protect the personal data,
126   including, if the app meets the definition of a controller under
127   s. 501.702, the methods implemented by the developer to comply
128   with part V of this chapter; and
129   4. Whether personal data is collected by the app and the
130   methods implemented by the developer to protect the personal
131   data, and, if the app meets the definition of a controller under
132   s. 501.702, the methods implemented by the developer to comply
133   with part V of this chapter.
134   (s) "Preinstalled application" means any app, or portion
135   thereof, which is present on a mobile device at the time of
136   purchase, initial activation, or first use by the consumer,
137   including browsers, search engines, and messaging, but excluding
138   core operating system functions, essential device drivers, and
139   applications necessary for basic device operation such as phone
140   call, settings, and emergency service applications. The term
141   includes apps, or portions thereof, installed or partially
142   installed by the device manufacturer, wireless service provider,
143   retailer, or any other party before purchase, initial
144   activation, or first use by the consumer and which may be
145   updated thereafter.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

38-01471-26   20261722__

146   (t) "Significant change" means a material modification to

147 an app's terms of service or privacy policy which:

148   1. Changes the categories of data collected, stored, or

149 shared;

150   2. Alters the app's age rating or content descriptions; or

151   3. Introduces in-app purchases where in-app purchases were

152 not previously present or introduces advertisements where

153 advertisements were not previously present in the app.

154   (u) "Verifiable parental consent" means authorization that:

155   1. Is provided by a parent account;

156   2. Is given after the app store provider has clearly and

157 conspicuously provided the parental consent disclosure as part

158 of the app download, purchase, or in-app purchase process; and

159   3. Requires the parent to make an affirmative choice to

160 grant consent or decline consent.

161   (2) APP STORE PROVIDERS.—

162   (a) An app store provider shall do all of the following:

163   1. At the time an individual located in this state creates

164 an account with the app store provider, or for existing

165 accounts, by July 1, 2028, request age category information from

166 the individual and verify the individual's age category using:

167   a. Commercially available methods reasonably designed to

168 ensure accuracy; or

169   b. An age verification method or process that complies with

170 department rule.

171   2. If the app store provider determines the individual is a

172 minor, require that the account be affiliated with a parent

173 account and obtain verifiable parental consent from the holder

174 of the affiliated parent account each time before allowing the

38-01471-26   20261722__

175 minor to download an app, purchase an app, or make an in-app

176 purchase.

177   3. After receiving notice of a significant change from a

178 developer, notify the account holder of the significant change

179 and, for a minor account, notify the parent account and obtain

180 renewed verifiable parental consent before providing access to

181 the significantly changed version of the app.

182   4. Provide to a developer, in response to a request

183 authorized under subsection (3), age category data for an

184 account holder located in this state and the status of

185 verifiable parental consent for a minor located in this state.

186   5. Provide a mechanism for a parent account to withdraw

187 consent and notify a developer when a parent revokes verifiable

188 parental consent.

189   6. Protect age category data and any associated

190 verification data by:

191   a. If applicable, complying with s. 501.1735;

192   b. Limiting collection and processing to data necessary for

193 verifying an account holder's age category, obtaining verifiable

194 parental consent, or maintaining compliance records; and

195   c. Transmitting age category data using industry-standard

196 encryption protocols that ensure data integrity and data

197 confidentiality.

198   7. For preinstalled apps, provide available age category

199 information in response to a request from a developer and take

200 reasonable measures to facilitate verifiable parental consent

201 for use of the app in response to a request from a developer.

202   (b) An app store provider may not:

203   1. Enforce a contract or terms of service against a minor

38-01471-26   20261722__

204 unless the app store provider has obtained verifiable parental

205 consent;

206   2. Knowingly misrepresent the information in the parental

207 consent disclosure; or

208   3. Share age category data and any associated data except

209 as required by this section or otherwise required by law.

210   (3) DEVELOPERS.—

211   (a) A developer shall:

212   1. Verify through the app store's data-sharing methods the

213 age category data of account holders located in this state, and

214 for a minor's account, whether verifiable parental consent has

215 been obtained;

216   2. Notify app store providers of significant changes to an

217 app;

218   3. Use age category data received through the app store's

219 data-sharing methods to enforce any developer-created, age-

220 related restrictions, safety-related features, or defaults, and

221 to enforce compliance with applicable laws and regulations; and

222   4. Request any age category data or verifiable parental

223 consent at the time an account holder downloads an app,

224 purchases an app, or launches a preinstalled app for the first

225 time; when implementing a significant change to the app; or to

226 comply with applicable law.

227   (b) A developer may request age category data:

228   1. No more than once during each 12-month period to verify

229 the accuracy of age category data associated with an account

230 holder or the continued account use within an age category

231 listed in paragraph (1)(b);

232   2. When there is reasonable suspicion of an account

38-01471-26   20261722__

233 transfer or misuse outside of the age category; or

234   3. At the time an account holder creates a new account with

235 the developer.

236   (c) When implementing any developer-created, age-related

237 restrictions, safety-related features, or defaults, a developer

238 must use the lowest age category listed in paragraph (1)(b)

239 indicated by age category data received through the app store's

240 data-sharing methods or age data independently collected by the

241 developer.

242   (d) A developer may not:

243   1. Enforce a contract or terms of service against a minor

244 unless the developer has verified through an app store's data-

245 sharing methods that verifiable parental consent has been

246 obtained;

247   2. Knowingly misrepresent any information in the parental

248 consent disclosure; or

249   3. Share age category data with any person.

250   (4) ENFORCEMENT.—

251   (a) A minor who has been harmed by a violation of this

252 section, or such minor's parent, may bring a civil action

253 against an app store provider or a developer. In such action,

254 the court shall award a prevailing plaintiff:

255   1. The greater of actual damages or $1,000 for each

256 violation;

257   2. Punitive damages if the violation was egregious;

258   3. Reasonable attorney fees; and

259   4. Litigation costs.

260   (b) A violation of this section is an unfair and deceptive

261 trade practice actionable under part II of this chapter by the

38-01471-26   20261722__

262 department. The department may bring an action against an app

263 store provider or a developer to:

264   1. Recover a civil penalty not to exceed $7,500 for each

265 violation;

266   2. Restrain or enjoin the app store provider or developer

267 from violating this section;

268   3. Seek injunctive relief;

269   4. Recover reasonable attorney fees; and

270   5. Recover litigation costs and the costs of investigating

271 the violation.

272   (c) For the purpose of bringing an action pursuant to this

273 section, ss. 501.211 and 501.212 do not apply.

274   (5) JURISDICTION.—For purposes of bringing an action

275 pursuant to this section, any person who meets the definition of

276 an app store provider or developer which operates or develops an

277 app store or app likely to be accessed by minors and accessible

278 by minors located in this state is considered to be both engaged

279 in substantial and not isolated activities within this state and

280 operating, conducting, engaging in, or carrying on a business

281 and doing business in this state, and is therefore subject to

282 the jurisdiction of the courts of this state.

283   (6) RULES.—The department shall adopt rules to establish

284 definite processes and means by which an app store provider may

285 verify an account holder's age category in accordance with this

286 section.

287   (7) SAFE HARBOR; APPLICABILITY.—

288   (a) A developer is not liable for a violation of this

289 section if the developer demonstrates that the developer:

290   1. Relied in good faith on applicable age category data

Page 10 of 13

38-01471-26   20261722__

291 received through an app store's data-sharing methods;

292   2. Relied in good faith on notification from an app store

293 provider that verifiable parental consent was obtained if the

294 account holder was a minor; and

295   3. Complied with the requirements of subsection (3).

296   (b) In determining an app's age rating and content

297 description for purposes of this section, a developer is not

298 liable for a violation of this section if the developer uses

299 widely adopted industry standards to determine the app's age

300 category and content description and applies those standards

301 consistently and in good faith.

302   (c) This subsection applies only to actions brought under

303 this section and does not limit a developer's or app store

304 provider's liability under any other applicable law.

305   (d) This section does not displace any other available

306 rights or remedies authorized under federal or Florida law.

307   (8) CONSTRUCTION.—This act may not be construed to do any

308 of the following:

309   (a) Prevent an app store provider or developer from taking

310 reasonable measures to block, detect, or prevent distribution to

311 minors of unlawful material, obscene material, or other harmful

312 material; block or filter spam; prevent criminal activity; or

313 protect app store or app security.

314   (b) Require an app store provider to disclose user

315 information to a developer beyond age category data or status of

316 parental consent.

317   (c) Allow an app store provider or developer to implement

318 measures required by this section in a manner that is arbitrary,

319 capricious, anticompetitive, or unlawful.

38-01471-26   20261722__

320   (d) Require an app store provider or developer to obtain
321 verifiable parental consent for an app that:
322   1. Provides direct access to emergency services, including
323 911, crisis hotlines, or emergency assistance services, legally
324 available to minors;
325   2. Limits data collection to information necessary to
326 provide emergency services in compliance with the Children's
327 Online Privacy Protection Act, 15 U.S.C. s. 6501 et seq.;
328   3. Provides access without requiring account creation or
329 collection of unnecessary personal information; and
330   4. Is operated by or in partnership with a governmental
331 entity, a nonprofit organization, or an authorized emergency
332 service provider.
333   (e) Require a developer to collect, retain, reidentify, or
334 link any information beyond what is necessary to verify age
335 category data as required by this section, and what is
336 collected, retained, reidentified, or linked in the developer's
337 ordinary course of business.
338   (f) Require an app store provider or developer to block
339 access to an application that an account holder has downloaded
340 or installed onto a mobile device before July 1, 2027, except to
341 the extent that a parent account revokes verifiable consent for
342 an affiliated minor account or there has been a significant
343 change to the application.
344   Section 3. If any provision of this act or its application
345 to any person or circumstance is held invalid, the invalidity
346 does not affect other provisions or applications of this act
347 which can be given effect without the invalid provision or
348 application, and to this end the provisions of this act are

CODING: Words <s>stricken</s> are deletions; words <u>underlined</u> are additions.

38-01471-26   20261722__

349 severable.

350   Section 4. This act shall take effect July 1, 2027.