

1 AN ACT relating to the protection of minors.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in this Sections 1 to 6 and 7 of this Act:*

6 *(1) "Account holder" means a person who has or opens an account or a profile to*
7 *use a social media company's platform;*

8 *(2) "Interactive computer service" has the same meaning as in 47 U.S.C. sec.*
9 *230(f)(2);*

10 *(3) "Minor" means an individual who is under the age of eighteen (18) and who is*
11 *not emancipated;*

12 *(4) "Post" means content that an account holder makes available on a social media*
13 *platform for other account holders or users to view;*

14 *(5) "Social media company" means a person or entity that:*

15 *(a) Provides a social media platform; and*

16 *(b) Is an interactive computer service;*

17 *(6) "Social media platform" means:*

18 *(a) A website or application that is open to the public, allows a user to create an*
19 *account, and enables users to do all of the following:*

20 *1. Interact socially with other users within the confines of the website or*
21 *application;*

22 *2. Construct a public or semipublic profile for the purpose of signing*
23 *into and using the website or application;*

24 *3. Populate a list of other users with whom an individual shares or has*
25 *the ability to share a social connection within the website or*
26 *application;*

27 *4. Create or post content viewable by others, including on message*

1 boards, chat rooms, video channels, direct or private messages, or
2 chats, or on a landing page or main feed that presents the user with
3 content generated by other users; and

4 **(b) Does not include:**

5 1. A broadband internet access service as defined by the Federal
6 Communications Commission;

7 2. An electronic mail service;

8 3. A search engine service;

9 4. A cloud storage or cloud computing service;

10 5. An online service, application, or website in which interaction between
11 users is limited to reviewing products offered for sale by electronic
12 commerce or commenting on reviews posted by other users; or

13 6. An online service, application, or website:

14 a. That consists primarily of information or content that is not
15 user-generated but is preselected by the provider; and

16 b. For which any chat, comments, or interactive functionality is
17 incidental to, directly related to, or dependent upon the provision
18 of the content described by subdivision a. of this subparagraph;
19 and

20 **(7) "User" means a person who has access to view all, or some of, the posts on a**
21 **social media platform, but is not an account holder.**

22 **➔SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO**
23 **READ AS FOLLOWS:**

24 **(1) (a) A social media company shall perform reasonable age verification of an**
25 **existing or new account holder, and if the existing or new account holder is**
26 **a minor, confirm that the minor has obtained parental consent as required**
27 **under subsection (2) of this section for:**

- 1 1. A new account, at the time the person opens the account; or
2 2. An account holder who has not provided age verification as required
3 under this section within fourteen (14) days of the account holder's
4 attempt to access the account.

5 (b) If an account holder fails to meet the verification requirements of this
6 subsection within the required time period, the social media company shall
7 deny access to the account:

- 8 1. Upon the expiration of the time period; and
9 2. Until all verification requirements are met.

10 (c) Reasonable age verification shall not consist solely of a user's affirmation
11 of his or her age. A social media platform or third party shall offer as many
12 of the following types of authentications as is feasible and efficient:

- 13 1. A digitized identification card, including a digital copy of a driver's
14 license;
15 2. Government-issued identification;
16 3. Financial documents or other documents that are reliable proxies for
17 age; or
18 4. Any other reliable age authentication method.

19 (d) Reasonable age verification may be conducted by a trusted third party other
20 than the social media company to verify age and consent and may employ
21 cryptographic techniques such as zero-knowledge proofs to preserve
22 anonymity and protect privacy.

23 (2) (a) A social media company shall not permit a minor user to be an account
24 holder on the social media platform unless the social media company has
25 obtained valid consent from a parent or guardian of the minor to open an
26 account under this section.

27 (b) Valid consent shall include:

- 1 1. The parent's or guardian's age verification as described in subsection
2 (1) of this section; and
- 3 2. A notarized document collected by the social media company or third
4 party from the parent or guardian attesting under penalty of perjury
5 that the consenting adult is the minor user's parent or guardian.
- 6 (3) A third-party vendor or a social media company that performs a reasonable age
7 verification or parental consent confirmation shall not retain any identifying
8 information of the individuals after access to the social media platform has been
9 granted.
- 10 (4) A parent or guardian of a minor user may revoke consent at any time upon
11 written notification to the social media company. The notification shall include
12 the requirements of valid consent as described in subsection (2)(b) of this section.

13 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
14 READ AS FOLLOWS:

15 A social media company shall provide a parent or guardian who has given parental
16 consent for a minor account holder as provided in Section 2 of this Act a means for the
17 parent or guardian to initiate account supervision, which shall include the ability for
18 the parent or guardian to:

- 19 (1) View all posts the minor account holder makes on the social media platform;
20 (2) View all messages sent to or by the minor account holder on the social media
21 platform;
- 22 (3) Control privacy and account settings of the minor's account; and
- 23 (4) Monitor and limit the amount of time the minor account holder spends on the
24 platform.

25 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
26 READ AS FOLLOWS:

- 27 (1) Any person may file a consumer complaint that alleges a violation of Section 2 of

1 *this Act with the Attorney General.*

2 *(2) The Attorney General shall investigate a consumer complaint to determine*
3 *whether a violation of Section 2 of this Act has occurred.*

4 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) The Attorney General has the exclusive authority to administer and enforce the*
7 *requirements of Sections 1 to 6 of this Act.*

8 *(2) Except as provided under subsection (3) of this section, the Attorney General*
9 *may:*

10 *(a) Impose an administrative fine of up to two thousand five hundred dollars*
11 *(\$2,500) for each violation of Section 2 of this Act; and*

12 *(b) Bring an action in a court of competent jurisdiction to enforce Section 2 of*
13 *this Act.*

14 *(3) (a) At least thirty (30) days before the Attorney General initiates an*
15 *enforcement action under this section, the Attorney General shall provide*
16 *the social media company with:*

17 *1. Written notice that identifies each alleged violation; and*

18 *2. An explanation of the basis for each allegation.*

19 *(b) Except as provided under paragraph (c) of this subsection, the Attorney*
20 *General shall not initiate an action if the social media company:*

21 *1. Cures the violation within thirty (30) days after the social media*
22 *company receives the notice described in paragraph (a) of this*
23 *subsection; and*

24 *2. Provides the Attorney General with a written statement that:*

25 *a. The social media company has cured the violation; and*

26 *b. No further violation will occur.*

27 *(c) The Attorney General may initiate a civil action against a social media*

1 company that:

2 1. Fails to cure a violation after receiving the notice described in
3 paragraph (a) of this subsection; or

4 2. After curing a violation and providing a written statement in
5 accordance with paragraph (b)2. of this subsection, commits another
6 violation of the same provision of Section 2 of this Act.

7 (4) In an action by the Attorney General to enforce Section 2 of this Act, the court
8 may:

9 (a) Declare that the act or practice violates Section 2 of this Act;

10 (b) Grant injunctive relief for a violation of Section 2 of this Act;

11 (c) Order any profits, gains, gross receipts, or benefit procured from a violation
12 of Section 2 of this Act to be forfeited and paid to the injured user or
13 account holder;

14 (d) Impose a civil penalty of up to two thousand five hundred dollars (\$2,500)
15 for each violation of Section 2 of this Act;

16 (e) Award actual damages to the injured user or account holder; or

17 (f) Award any other relief that the court deems reasonable and necessary.

18 (5) If a court of competent jurisdiction enters an order granting injunctive or other
19 relief to the Attorney General, the court shall award the Attorney General:

20 (a) Reasonable attorney's fees;

21 (b) Court costs; and

22 (c) Investigative costs and fees.

23 (6) (a) If a social media company does not comply with a court order or an
24 administrative order issued by the Attorney General for a violation of
25 Section 2 of this Act, the social media company shall be subject to an
26 additional civil penalty of up to five thousand dollars (\$5,000) for each
27 violation.

1 **(b) A civil penalty authorized under this section may be imposed in any civil**
2 **action brought by the Attorney General.**

3 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
4 READ AS FOLLOWS:

5 **Notwithstanding any contract or choice of law provision in a contract, a waiver or**
6 **limitation, or purported waiver or limitation, of any of the following shall be void and**
7 **unenforceable as against public policy, and a court or arbitrator shall not enforce or**
8 **give effect to the waiver or limitation of:**

- 9 **(1) A protection or requirement provided under Sections 1 to 6 of this Act;**
10 **(2) The right to cooperate or file a complaint with the Attorney General; or**
11 **(3) The right to a private right of action under Section 7 of this Act.**

12 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
13 READ AS FOLLOWS:

14 **(1) A person may bring a civil action against an entity that does not comply with**
15 **Section 2 of this Act.**

16 **(2) A civil action filed under the authority of this section shall be filed in the Circuit**
17 **Court for the county in which the person bringing the action resides.**

18 **(3) If a court finds that an entity has violated Section 2 of this Act, the person who**
19 **brings a civil action under this section is entitled to:**

20 **(a) An award of reasonable attorney's fees and court costs;**

21 **(b) An amount equal to the greater of:**

22 **1. Ten thousand dollars (\$10,000) per incident of violation; or**

23 **2. Actual damages; and**

24 **(c) Punitive damages.**

25 **(4) For purposes of this section, a violation shall include:**

26 **(a) The creation or retention of a minor user's account in violation of Section 2**
27 **of this Act;**

- 1 (b) The retention of any identifying information of any individual, age-
2 verification information, or parental consent or parental consent revocation
3 information that a user or parent or guardian of a user provided to either a
4 social media company or a third party pursuant to Section 2 of this Act,
5 after access to the social media platform was granted; or
6 (c) Unless otherwise required by law, the disclosure of any identifying
7 information of any individual, age-verification information, or parental
8 consent or parental consent revocation information that a user or parent or
9 guardian of a user provided to either a social media company or a third
10 party pursuant to Section 2 of this Act.