

119TH CONGRESS
2D SESSION

S. _____

To ensure responsible age assurance practices within the mobile ecosystem,
particularly concerning the protection of minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MORAN (for himself and Ms. ROSEN) introduced the following bill; which
was read twice and referred to the Committee on _____

A BILL

To ensure responsible age assurance practices within the
mobile ecosystem, particularly concerning the protection
of minors, 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 “Parents Over Platforms 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.

TITLE I—APPLICATION DISTRIBUTION PROVIDER AND
DEVELOPER RESPONSIBILITIES

- Sec. 101. Age assurance.
Sec. 102. Application distributor and developer obligations.

TITLE II—LIABILITY AND ENFORCEMENT

- Sec. 201. Limitations on liability.
Sec. 202. Enforcement.
Sec. 203. Preemption.
Sec. 204. Severability.
Sec. 205. Effective date.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ADULT.**—The term “adult” means an ac-
4 count holder who is or is estimated to be 18 years
5 of age or older.

6 (2) **AGE CATEGORY.**—The term “age category”
7 means categorization of an individual based on age
8 or estimated age, including a description of the user
9 as a minor, an adult, or as being within a given age
10 range.

11 (3) **AGE SIGNAL.**—The term “age signal”
12 means a signal that indicates an account holder’s
13 age category, which the account holder or the ac-
14 count holder’s parent has agreed to share.

15 (4) **APPLICATION.**—

16 (A) **IN GENERAL.**—The term “application”
17 means a software program that is—

18 (i) designed to be run on a connected
19 device, and to perform, or to help the user
20 perform, a specific task on the connected
21 device; and

1 (ii) distributed through an application
2 distribution provider.

3 (B) EXCLUSIONS.—The term “application”
4 does not include—

5 (i) websites or internet browser exten-
6 sions; or

7 (ii) software with a primary purpose
8 of extending the functionality of an inter-
9 net browser.

10 (5) APPLICATION DISTRIBUTOR.—The term
11 “application distributor”—

12 (A) means a software application that dis-
13 tributes applications from developers to users of
14 a connected device; and

15 (B) does not include an internet browser.

16 (6) APPLICATION DISTRIBUTION PROVIDER.—
17 The term “application distribution provider” means
18 an entity, company, or organization that owns, oper-
19 ates, or controls an application distributor.

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

22 (8) CONNECTED DEVICE.—The term “con-
23 nected device” means a smartphone, tablet, gaming
24 console, or virtual reality device that enables users
25 to connect to the internet and download applications.

1 (9) COVERED APPLICATION.—

2 (A) IN GENERAL.—The term “covered ap-
3 plication”—

4 (i) means an application—

5 (I) that is not an application dis-
6 tributor; and

7 (II) for which a developer pro-
8 vides, whether legally required or
9 not—

10 (aa) a different experience
11 for adults than for minors; or

12 (bb) an experience that is
13 intended only for adults; and

14 (ii) includes an application for which
15 a developer provides different account
16 types, content, or features, or engages in
17 different advertising or data practices, de-
18 pending on a user’s age.

19 (B) EXCLUSION.—The term “covered ap-
20 plication” does not include an internet browser
21 or online search engine.

22 (10) COVERED WEBSITE.—

23 (A) IN GENERAL.—The term “covered
24 website” means a website that provides a URL-

1 accessible or web version of a covered applica-
2 tion.

3 (B) EXCLUSION.—The term “covered
4 website” does not include an internet browser
5 or online search engine.

6 (11) DEVELOPER.—The term “developer”
7 means any person, entity, company, or organization
8 that creates, owns, or controls an application.

9 (12) MINOR.—The term “minor” means an ac-
10 count holder who is or is estimated to be under the
11 age of 18.

12 (13) PERSONALIZED ADVERTISING.—

13 (A) IN GENERAL.—The term “personalized
14 advertising” means the displaying of an adver-
15 tisement to an account holder that is selected
16 based on personal data obtained from the ac-
17 count holder’s activities over time and across
18 non-affiliated websites or online applications to
19 predict such account holder’s preferences or in-
20 terests.

21 (B) EXCLUSION.—The term “personalized
22 advertising” does not include—

23 (i) advertising based on an account
24 holder’s activities within a developer’s own
25 application or applications;

1 (ii) advertising based on the context
2 of an account holder's current interaction
3 with an application;

4 (iii) advertising directed to an account
5 holder in response to the account holder's
6 direct request for information or feedback;
7 or

8 (iv) the processing of personal data
9 solely for measuring or reporting adver-
10 tising performance, reach, or frequency.

11 **TITLE I—APPLICATION DIS-**
12 **TRIBUTION PROVIDER AND**
13 **DEVELOPER RESPONSIBIL-**
14 **ITIES**

15 **SEC. 101. AGE ASSURANCE.**

16 (a) RESPONSIBILITIES OF APPLICATION DISTRIBU-
17 TION PROVIDERS.—An application distribution provider—

18 (1) shall ask account holders to declare their
19 age when creating an account with the application
20 distribution provider;

21 (2) may use commercially reasonable efforts to
22 obtain the age category of an account holder with a
23 reasonable level of certainty;

24 (3) may provide account holders with a mecha-
25 nism to obtain their age category and the ability to

1 request an update if they believe their age category
2 is incorrect; and

3 (4) shall provide developers of covered applica-
4 tions the technical ability to access an age signal
5 where the account holder or the account holder's
6 parent has agreed to share such age signal.

7 (b) RULES OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to—

9 (1) preclude an application distribution provider
10 from using multiple commercially reasonable meth-
11 ods to obtain, estimate, or provide the age category
12 of an account holder; or

13 (2) restrict an application distribution pro-
14 vider's ability to satisfy the requirements of this sec-
15 tion by obtaining a minor account holder's age from
16 the minor's parent.

17 **SEC. 102. APPLICATION DISTRIBUTOR AND DEVELOPER OB-**
18 **LIGATIONS.**

19 (a) APPLICATION DISTRIBUTION PROVIDERS.—

20 (1) OBLIGATIONS.—An application distribution
21 provider shall do the following:

22 (A) Provide a minor account holder's par-
23 ent with the ability to prevent the minor from
24 acquiring or using a developer's covered appli-
25 cation from the application distributor.

1 (B) Provide developers with the ability to
2 provide information regarding their relevant pa-
3 rental controls for a covered application
4 through a centralized product page or user
5 interface, hosted by the application distribution
6 provider, that provides relevant information
7 about a covered application.

8 (C) Comply with the obligations described
9 in subsection (b) with respect to any covered
10 applications for which the application distribu-
11 tion provider is also the developer.

12 (D) Not use data collected from third-
13 party covered applications in the course of com-
14 pliance with this section to give the application
15 distribution provider's own applications pref-
16 erence relative to those of third parties, or to
17 otherwise use such data in an anti-competitive
18 manner.

19 (2) **RULE OF CONSTRUCTION.**—Nothing in this
20 section shall be construed to prevent an application
21 distribution provider from creating a user interface
22 or centralized page for minor account holders' par-
23 ents to block categories by age rating of covered ap-
24 plications based on the content and features of the
25 covered application.

1 (b) DEVELOPERS OF COVERED APPLICATIONS.—

2 (1) IN GENERAL.—A developer of a covered ap-
3 plication shall do the following:

4 (A) Report to the application distribution
5 provider whether the application of the devel-
6 oper provides a different experience for adult
7 users than for minor users or is intended only
8 for adults.

9 (B) With respect to any covered applica-
10 tion that is authorized to be used by a minor,
11 provide information regarding privacy and on-
12 line safety settings to help parents support mi-
13 nors using such application.

14 (C) Use commercially reasonable efforts to
15 determine whether a user is an adult or a minor
16 with a reasonable level of certainty in accord-
17 ance with paragraph (2).

18 (D) Make a reasonable effort to ensure
19 that users who are minors cannot engage in any
20 activity that has been restricted by the devel-
21 oper for adults only.

22 (E) Obtain consent prior to permitting
23 minor account holders from accessing a covered
24 application or portion thereof that the developer
25 has designated as unsuitable for use by minors

1 without parental guidance or supervision, or
2 from accessing content that is age-gated by law.

3 (F) Not deliver personalized advertising to
4 minors.

5 (G) With respect to an age signal re-
6 quested by a developer from an application dis-
7 tribution provider regarding use of a covered
8 application, the developer—

9 (i) shall request the minimum amount
10 of information needed for purposes of com-
11 pliance with this Act;

12 (ii) may not willfully disregard any in-
13 formation regarding an individual's age or
14 age category that is otherwise available to
15 the developer;

16 (iii) may not share the information
17 obtained from the age signal with third
18 parties, except for a service provider, but
19 only if necessary for such service provider
20 to implement safety measures or privacy
21 protections for minors or otherwise re-
22 quired to do so by law; and

23 (iv) may not use the age signal for
24 any purpose beyond that intended by this
25 Act, including using the age signal to ob-

1 tain or attempt to obtain a user’s date of
2 birth.

3 (H) In the event that a developer uses a
4 method other than an age signal provided by an
5 application distribution provider to satisfy the
6 requirements of this section, the developer—

7 (i) shall request the minimum amount
8 of information needed for purposes of com-
9 pliance with this Act;

10 (ii) may not willfully disregard any in-
11 formation regarding an individual’s age or
12 age category that is available to the devel-
13 oper;

14 (iii) may not share the information
15 obtained in the course of complying with
16 this section with third parties, except for a
17 service provider, but only if necessary for
18 such service provider to implement safety
19 measures or privacy protections for minors
20 or otherwise required to do so by law; and

21 (iv) may not use age data for any pur-
22 pose beyond that intended by this Act, in-
23 cluding using age data to obtain or at-
24 tempt to obtain a user’s date of birth.

25 (2) COMMERCIALY REASONABLE EFFORT.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), for the purposes paragraph (1)(C),
3 an age signal provided to a developer by an ap-
4 plication distribution provider shall be consid-
5 ered a commercially reasonable effort.

6 (B) EXCEPTION.—With respect to an ap-
7 plication that is intended only for adults and is
8 required by law to restrict access to adults, an
9 age signal provided to a developer by an appli-
10 cation distribution provider that indicates a
11 user is—

12 (i) a minor shall be a sufficient basis
13 to block access to such application; or

14 (ii) an adult shall not, by itself, sat-
15 isfy the requirement to determine whether
16 a user is an adult with a reasonable level
17 of certainty, including for purposes of
18 other laws that require access restrictions
19 based on age.

20 (c) SPECIAL RULES.—

21 (1) COMMON CONTROL.—If a developer and an
22 application distribution provider are controlled by
23 the same entity, the developer may rely on age de-
24 terminations made by that entity.

1 (2) APPLICABILITY TO COVERED WEBSITES.—A
2 developer of a covered website shall have the same
3 requirements as a developer of a covered application
4 under this Act and may carry over or repurpose an
5 age signal received from an application distribution
6 provider under section 101(a)(4) to fulfill such re-
7 quirements with respect to the developer’s covered
8 website.

9 **TITLE II—LIABILITY AND** 10 **ENFORCEMENT**

11 **SEC. 201. LIMITATIONS ON LIABILITY.**

12 (a) APPLICATION DISTRIBUTION PROVIDERS.—An
13 application distribution provider that makes a good faith
14 effort to comply with the obligations of this Act (as deter-
15 mined by the Commission or a court taking into consider-
16 ation available technology) shall not be liable under any
17 provision of this Act, or otherwise liable for its actions
18 taken in attempt to comply with this Act, including, but
19 not limited to, the following with regard to facilitation of
20 the provision of an age signal:

21 (1) Any erroneous age signal.

22 (2) Any conduct by a developer of a covered ap-
23 plication that receives any age signal.

1 (3) Failing to provide an age signal due to any
2 reasonable technical limitations or outages that pre-
3 vent the provision of the age signal upon request.

4 (4) Not providing the age signal to developers
5 that do not adhere to reasonable safety standards
6 and application distribution provider policies.

7 (b) DEVELOPERS.—

8 (1) SOLE LIABILITY FOR DETERMINING
9 WHETHER AN APPLICATION IS A COVERED APPLICA-
10 TION.—A developer shall be solely responsible for
11 correctly identifying whether an application of the
12 developer is a covered application under this Act. No
13 application distribution provider is required to
14 proactively identify a covered application, and an ap-
15 plication distribution provider shall not be held liable
16 in cases where a developer provides inaccurate infor-
17 mation about its applications.

18 (2) ERRONEOUS AGE SIGNAL.—A developer of a
19 covered application shall not be liable for an erro-
20 neous age signal provided by an application distribu-
21 tion provider if the developer makes a reasonable ef-
22 fort, taking into consideration available technology,
23 to properly use the age signal and carry out com-
24 mercially reasonable methods to obtain or estimate
25 the age of an account holder.

1 **SEC. 202. ENFORCEMENT.**

2 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

3 A violation of this Act or a regulation promulgated there-
4 under shall be treated as a violation of a rule defining
5 an unfair or deceptive act or practice under section
6 18(a)(1)(B) of the Federal Trade Commission Act (15
7 U.S.C. 57a(a)(1)(B)).

8 (b) POWERS OF THE COMMISSION.—

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

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

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

1 **SEC. 203. PREEMPTION.**

2 No State or political subdivision of a State may main-
3 tain, enforce, prescribe, or continue in effect any law, rule,
4 regulation, requirement, standard, or other provision hav-
5 ing the force and effect of law of any State, or political
6 subdivision of a State, related to the provisions of this Act.

7 **SEC. 204. SEVERABILITY.**

8 If any provision of this Act or the application of any
9 provision to any person or circumstance is held invalid by
10 a final decision of a court of competent jurisdiction, the
11 remainder of this Act shall be given effect without the in-
12 valid provision or application.

13 **SEC. 205. EFFECTIVE DATE.**

14 This Act shall take effect on the date that is 2 years
15 after the date of its enactment.