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136th General Assembly  
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Sub. S. B. No. 167

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To enact sections 1349.07, 1349.071, 1349.072,  
1349.073, 1349.074, and 1349.075 of the Revised  
Code to require application stores to obtain  
consent from and disclose certain information to  
parents before permitting minors to download  
certain applications and to name the act the App  
Store Accountability Act.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1349.07, 1349.071, 1349.072,  
1349.073, 1349.074, and 1349.075 of the Revised Code be enacted  
to read as follows:

Sec. 1349.07. As used in sections 1349.07 to 1349.075 of  
the Revised Code:

(A) "Adult" means an individual who is at least eighteen  
years of age.

(B) "Age category" means one of the following categories  
of individuals based on age:

(1) Child;



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<u>(2) Younger teenager;</u>	18
<u>(3) Older teenager;</u>	19
<u>(4) Adult.</u>	20
<u>(C) "Age category data" means information about a user's age category that is collected by an application store provider and shared with a developer.</u>	21 22 23
<u>(D) "Age rating" means a clarification that provides an assessment of the suitability of the content of an application for different age groups.</u>	24 25 26
<u>(E) "Application" means a software application or electronic service that a user may run or direct on a mobile device.</u>	27 28 29
<u>(F) "Application store" means a publicly available web site, software application, or electronic service that allows users to download applications from third-party developers onto a mobile device.</u>	30 31 32 33
<u>(G) "Application store provider" means a person that owns, operates, or controls an application store that allows users in this state to download applications onto a mobile device.</u>	34 35 36
<u>(H) "Child" means an individual who is less than thirteen years of age.</u>	37 38
<u>(I) "Content description" means a description of the specific content elements that inform the age rating of an application.</u>	39 40 41
<u>(J) "Developer" means a person that owns or controls an application made available through an application store in this state.</u>	42 43 44

(K) "Knowingly" means to act with actual knowledge or with knowledge fairly inferred based on objective circumstances. 45  
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(L) "Minor" means an individual who is less than eighteen years of age. 47  
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(M) "Minor account" means an account with an application store provider that is established by an individual who the application store provider determines is a minor through the application store provider's age verification methods and requires affiliation with a parent account. 49  
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(N) "Mobile device" means a telephone or general purpose tablet that meets all of the following: 54  
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(1) Provides cellular or wireless connectivity; 56

(2) Is capable of connecting to the internet; 57

(3) Runs a mobile operating system; 58

(4) Is capable of running applications through the mobile operating system. 59  
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(O) "Mobile operating system" means software that meets all of the following: 61  
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(1) Manages mobile device hardware resources; 63

(2) Provides common services for mobile device programs; 64

(3) Controls memory allocation; 65

(4) Provides interfaces for applications to access device functionality. 66  
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(P) "Older teenager" means an individual who is at least sixteen years of age and less than eighteen years of age. 68  
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(Q) "Parent" includes a legal guardian. 70

(R) "Parent account" means an account with an application store provider that is verified to be established by an individual who the application store provider determines is an adult through the application store provider's age verification methods and may be affiliated with one or more minor accounts. 71  
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(S) "Parental consent disclosure" means the following information: 76  
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(1) The age rating, if any, for the application or intra-application purchase; 78  
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(2) The content description, if any, for the application or intra-application purchase; 80  
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(3) A description of both of the following: 82

(a) The personal data collected by the application from a user; 83  
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(b) The personal data shared by the application with a third party. 85  
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(4) If personal data is collected by the application, the methods implemented by the developer to protect the personal data. 87  
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(T) "Significant change" means a material modification to the terms of service or privacy policy of an application that does any of the following: 90  
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(1) Changes the categories of data collected, stored, or shared; 93  
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(2) Alters the the age rating or content descriptions of the application; 95  
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(3) Adds new monetization features, including intra- 97

<u>application purchases or advertisements;</u>	98
<u>(4) Materially changes the functionality of or user experience in the application.</u>	99 100
<u>(U) "Verifiable parental consent" means authorization that meets all of the following:</u>	101 102
<u>(1) Is provided by an individual who the application store provider verifies to be an adult;</u>	103 104
<u>(2) Is given after the application store provider clearly and conspicuously provides the parental consent disclosure to the individual;</u>	105 106 107
<u>(3) Requires the individual to make an affirmative choice to grant or decline consent.</u>	108 109
<u>(V) "Younger teenager" means an individual who is at least thirteen years of age and less than sixteen years of age.</u>	110 111
<b><u>Sec. 1349.071. (A) An application store provider shall do all of the following:</u></b>	112 113
<u>(1) At the time an individual located in this state creates an account with the application store provider, both of the following:</u>	114 115 116
<u>(a) Require the individual to provide the individual's age before creating the account;</u>	117 118
<u>(b) Verify the age category of the individual using either of the following:</u>	119 120
<u>(i) Commercially available methods that are reasonably designed to ensure accuracy;</u>	121 122
<u>(ii) An age verification method or process that complies with rules adopted by the director of commerce under division</u>	123 124

<u>(C) of this section.</u>	125
<u>(2) If the age verification method or process described in</u>	126
<u>division (A) (1) of this section determines that the individual</u>	127
<u>is a minor, both of the following:</u>	128
<u>(a) Require the account to be affiliated with a parent</u>	129
<u>account;</u>	130
<u>(b) Obtain verifiable parental consent from the holder of</u>	131
<u>the affiliated parent account before allowing a minor to do any</u>	132
<u>of the following:</u>	133
<u>(i) Download an application;</u>	134
<u>(ii) Purchase an application;</u>	135
<u>(iii) Make an intra-application purchase.</u>	136
<u>(3) After receiving notice of a significant change from a</u>	137
<u>developer, both of the following:</u>	138
<u>(a) Notify all users that have downloaded the application</u>	139
<u>from a location in this state of the significant change;</u>	140
<u>(b) For a minor account holder, both of the following:</u>	141
<u>(i) Notify the account holder of the affiliated parent</u>	142
<u>account;</u>	143
<u>(ii) Obtain renewed verifiable parental consent.</u>	144
<u>(4) Provide a developer, in response to a request</u>	145
<u>authorized under section 1349.072 of the Revised Code, both of</u>	146
<u>the following:</u>	147
<u>(a) Age category data for a user located in this state;</u>	148
<u>(b) The status of verified parental consent for a minor</u>	149
<u>located in this state.</u>	150

<u>(5) Notify a developer when a parent revokes parental consent;</u>	151 152
<u>(6) Protect personal age verification data by doing both of the following:</u>	153 154
<u>(a) Limiting collection and processing to data necessary for the following:</u>	155 156
<u>(i) Verifying a user's age;</u>	157
<u>(ii) Obtaining parental consent;</u>	158
<u>(iii) Maintaining compliance records.</u>	159
<u>(b) Transmitting personal age verification data using industry standard encryption protocols that ensure data integrity and confidentiality.</u>	160 161 162
<u>(B) An application store provider shall not do any of the following:</u>	163 164
<u>(1) Enforce a contract or terms of service against a minor unless the application store provider has obtained verifiable parental consent;</u>	165 166 167
<u>(2) Knowingly misrepresent information in a parental consent disclosure;</u>	168 169
<u>(3) Share personal age verification data except as follows:</u>	170 171
<u>(a) Between an application store provider and a developer as required by sections 1349.07 to 1349.075 of the Revised Code;</u>	172 173
<u>(b) As otherwise required by law.</u>	174
<u>(C) The director of commerce shall adopt rules in accordance with Chapter 119. of the Revised Code establishing</u>	175 176

processes and means by which an application store provider may 177  
verify whether an account holder is a minor in accordance with 178  
this section. 179

Sec. 1349.072. (A) A developer shall do all of the 180  
following: 181

(1) Verify through the application store's data sharing 182  
module both of the following: 183

(a) The age category of users located in this state; 184

(b) For a minor account, whether verifiable parental 185  
consent has been obtained. 186

(2) Notify application store providers of any significant 187  
change to the developer's application; 188

(3) Use age category data received from an application 189  
store provider to do all of the following: 190

(a) Enforce any developer-created age-related 191  
restrictions; 192

(b) Ensure compliance with applicable laws and 193  
regulations; 194

(c) Implement any developer-created safety-related 195  
features or defaults. 196

(4) Request personal age verification data or parental 197  
consent at all of the following times: 198

(a) When a user downloads or purchases the application; 199

(b) When implementing a significant change to the 200  
application; 201

(c) Whenever necessary to comply with applicable laws or 202

<u>regulations.</u>	203
<u>(B) (1) A developer shall not request personal age</u>	204
<u>verification data or parental consent more than every twelve</u>	205
<u>months to verify either of the following:</u>	206
<u>(a) Accuracy of user age verification data;</u>	207
<u>(b) Continued account use within the verified age</u>	208
<u>category.</u>	209
<u>(2) Division (B) (1) of this section does not prohibit a</u>	210
<u>developer from requesting personal age verification data or</u>	211
<u>parental consent when there is reasonable suspicion of either of</u>	212
<u>the following:</u>	213
<u>(a) Account transfer;</u>	214
<u>(b) Misuse outside of the verified age category.</u>	215
<u>(3) Division (B) (1) of this section does not prohibit a</u>	216
<u>developer from requesting personal age verification data or</u>	217
<u>parental consent at the time a user creates a new account with</u>	218
<u>the developer.</u>	219
<u>(C) When implementing any developer-created safety-related</u>	220
<u>features or defaults, a developer shall use the lowest age</u>	221
<u>category indicated by either:</u>	222
<u>(1) Age verification data provided by an application store</u>	223
<u>provider;</u>	224
<u>(2) Age data independently collected by the developer.</u>	225
<u>(D) A developer shall not do any of the following:</u>	226
<u>(1) Enforce a contract or terms of service against a minor</u>	227
<u>unless the developer has verified through the application store</u>	228
<u>provider that verifiable parental consent has been obtained;</u>	229

<u>(2) Knowingly misrepresent any information in a parental consent disclosure;</u>	230 231
<u>(3) Share age category data with any other person.</u>	232
<b>Sec. 1349.073.</b> (A) <u>A violation of division (B) (2) of section 1349.071 or division (D) (2) of section 1349.072 of the Revised Code is an unfair or deceptive act or practice in violation of section 1349.02 of the Revised Code.</u>	233 234 235 236
<u>(B) Notwithstanding section 1345.09 of the Revised Code, only the following persons have a private cause of action for any violation of sections 1349.07 to 1349.075 of the Revised Code:</u>	237 238 239 240
<u>(1) A minor or the parent of that minor who is harmed by a violation of division (B) of section 1349.071 of the Revised Code has a cause of action against the application store provider.</u>	241 242 243 244
<u>(2) A minor or a parent of that minor who is harmed by a violation of division (D) of section 1349.072 of the Revised Code has a cause of action against the developer.</u>	245 246 247
<u>(C) Notwithstanding section 1345.09 of the Revised Code, but subject to section 1349.073 of the Revised Code, a prevailing minor or parent in an action permitted under division (B) of this section is entitled to all of the following relief:</u>	248 249 250 251
<u>(1) Actual damages or one thousand dollars for each violation, whichever is greater;</u>	252 253
<u>(2) Reasonable attorney's fees;</u>	254
<u>(3) Litigation costs.</u>	255
<b>Sec. 1349.074.</b> (A) <u>A developer is not liable for a</u>	256

violation of section 1349.072 of the Revised Code that the 257  
developer demonstrates was caused by the developer's good faith 258  
reliance on either of the following: 259

(1) Personal age verification data provided by an 260  
application store provider; 261

(2) If the personal age verification data indicates that 262  
the user is a minor, notification from an application store 263  
provider that verifiable parental consent was obtained. 264

(B) A developer is not liable for a violation of division 265  
(D) (2) of section 1349.072 of the Revised Code if the developer 266  
demonstrates both of the following: 267

(1) The developer uses widely adopted industry standards 268  
to determine the age category of the application and the content 269  
description disclosure. 270

(2) The developer applies those standards consistently and 271  
in good faith. 272

(C) This section applies only to actions brought under 273  
section 1349.073 of the Revised Code and does not limit a 274  
developer's or application store provider's liability under any 275  
other applicable law. 276

(D) Nothing in this section shall be construed to displace 277  
any other available remedies authorized under the laws of this 278  
state or the United States. 279

**Sec. 1349.075.** Nothing in sections 1349.07 to 1349.075 of 280  
the Revised Code shall be construed to do any of the following: 281

(A) Prevent an application store provider or developer 282  
from taking reasonable measures to do any of the following: 283

<u>(1) Block, detect, or prevent distribution to minors of</u>	284
<u>unlawful, obscene, or harmful material;</u>	285
<u>(2) Block or filter spam;</u>	286
<u>(3) Prevent criminal activity;</u>	287
<u>(4) Protect application store or application security.</u>	288
<u>(B) Require an application store provider to disclose user</u>	289
<u>information to a developer other than the following:</u>	290
<u>(1) Age category;</u>	291
<u>(2) Verification of parental consent status.</u>	292
<u>(C) Allow an application store provider or developer to</u>	293
<u>implement measures required by sections 1349.07 to 1349.075 of</u>	294
<u>the Revised Code in a manner that is arbitrary, capricious,</u>	295
<u>adverse to competition, or unlawful;</u>	296
<u>(D) Require an application store provider or developer to</u>	297
<u>obtain parental consent for an application that meets all of the</u>	298
<u>following:</u>	299
<u>(1) Provides direct access to emergency services,</u>	300
<u>including:</u>	301
<u>(a) 9-1-1;</u>	302
<u>(b) Crises hotlines;</u>	303
<u>(c) Other emergency assistance services legally available</u>	304
<u>to minors.</u>	305
<u>(2) Limits data collection to information necessary to</u>	306
<u>provide emergency services in compliance with the "Children's</u>	307
<u>Online Privacy Protection Act," 15 U.S.C. 6501, et seq.;</u>	308
<u>(3) Provides access without requiring account creation or</u>	309

<u>collection of unnecessary personal information; and</u>	310
<u>(4) Is operated by or in partnership with any of the</u>	311
<u>following:</u>	312
<u>(a) A government entity;</u>	313
<u>(b) A nonprofit organization;</u>	314
<u>(c) An authorized emergency service provider.</u>	315
<u>(E) Require a developer to collect, retain, reidentify, or</u>	316
<u>link any information beyond what is either:</u>	317
<u>(1) Necessary to verify age categories and parental</u>	318
<u>consent status as required by sections 1349.07 to 1349.075 of</u>	319
<u>the Revised Code;</u>	320
<u>(2) Collected, retained, reidentified, or linked in the</u>	321
<u>developer's ordinary course of business.</u>	322
<b>Section 2.</b> This Act shall be known as the App Store	323
Accountability Act.	324