

IN THE SENATE

SENATE BILL NO. 1417

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO SOCIAL MEDIA COMPANIES; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 21, TITLE 48, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR AGE REQUIREMENTS FOR USE OF SOCIAL MEDIA PLATFORMS AND TO PROVIDE FOR PARENTAL CONSENT, TO PROVIDE FOR INVESTIGATIVE AND ENFORCEMENT POWERS OF THE ATTORNEY GENERAL, TO PROVIDE FOR A PRIVATE RIGHT OF ACTION, TO PROHIBIT CERTAIN WAIVERS, AND TO PROVIDE SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 21, Title 48, Idaho Code, and to read as follows:

CHAPTER 21  
PARENTAL RIGHTS IN SOCIAL MEDIA ACT

48-2101. SHORT TITLE. This chapter shall be known and may be cited as the "Parental Rights in Social Media Act."

48-2102. DEFINITIONS. As used in this chapter:

- (1) "Account holder" means a person who has or opens an account or profile to use a social media company's platform.
- (2) "Commercial entity" means corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized business entities.
- (3) "Educational entity" means a public school, a local education agency (LEA), the Idaho school for the deaf and the blind, a private school, a denominational school, a parochial school, a community college, a state college, a state university, or a nonprofit private postsecondary educational institution.
- (4) "Idaho account holder" means a person who is an Idaho resident and an account holder, including an Idaho minor account holder.
- (5) "Idaho minor account holder" means an Idaho account holder who is a minor.
- (6) "Interactive computer service" means an information service, information system, or information access software provider that provides or enables computer access by multiple users to a computer server and provides access to the internet. It includes a web service, a web system, a website, a web application, or a web portal.
- (7) "Minor" means an individual who is under eighteen (18) years of age.
- (8) "Post" means content that an account holder makes available on a social media platform for other account holders or users to view.

1 (9) "Social media company" means a commercial entity that provides a  
2 social media platform that has at least five million (5,000,000) account  
3 holders worldwide and is an interactive computer service.

4 (10) (a) "Social media platform" means an online forum that a social me-  
5 dia company makes available for an account holder to create a profile,  
6 upload posts, view the posts of other account holders, and interact with  
7 other account holders or users.

8 (b) "Social media platform" does not include an online service, web-  
9 site, or application:

10 (i) Where the predominant or exclusive function is:

11 1. Electronic mail;

12 2. Direct messaging consisting of text, photos, or videos  
13 that are sent between devices by electronic means, where  
14 messages are shared between the sender and the recipient,  
15 are only visible to the sender and the recipient, and are not  
16 posted publicly;

17 3. A streaming service that:

18 (A) Provides only licensed media in a continuous flow  
19 from the service, website, or application to the end  
20 user; and

21 (B) Does not obtain a license to the media from a user  
22 or account holder by agreement to its terms of service;

23 4. News, sports, entertainment, or other content that is  
24 preselected by the provider and not user generated, and any  
25 chat, comment, or interactive functionality that is pro-  
26 vided incidental to, directly related to, or dependent upon  
27 provision of the content;

28 5. Online shopping or e-commerce if the interaction with  
29 other users or account holders is generally limited to:

30 (A) The ability to upload a post and comment on re-  
31 views;

32 (B) The ability to display lists or collections of  
33 goods for sale or wish lists; and

34 (C) Other functions that are focused on online shop-  
35 ping or e-commerce rather than interaction between  
36 users or account holders;

37 6. Interactive gaming, virtual gaming, or an online ser-  
38 vice, any of which allows the creation and uploading of con-  
39 tent for the purpose of interactive gaming, edutainment, or  
40 associated entertainment, and the communication related to  
41 that content;

42 7. Photo editing that has an associated photo hosting ser-  
43 vice if the interaction with other users or account holders  
44 is generally limited to liking or commenting;

45 8. A professional creative network for showcasing and dis-  
46 covering artistic content if the content is required to be  
47 non-pornographic;

48 9. Single-purpose community groups for public safety if:

49 (A) The interaction with other users or account hold-  
50 ers is generally limited to that single purpose; and

- 1 (B) The community group has guidelines or policies  
 2 against illegal content;  
 3 10. Providing career development opportunities, including  
 4 professional networking, job skills, learning certifica-  
 5 tions, and job posting and application services;  
 6 11. Business-to-business software;  
 7 12. A teleconferencing or videoconferencing service that  
 8 allows reception and transmission of audio and video signals  
 9 for real time communication;  
 10 13. Cloud storage;  
 11 14. Shared document collaboration;  
 12 15. Cloud computing services, which may include cloud stor-  
 13 age and shared document collaboration;  
 14 16. Providing access to or interacting with data visualiza-  
 15 tion platforms, libraries, or hubs;  
 16 17. To permit comments on a digital news website, if the news  
 17 content is posted only by the provider of the digital news  
 18 website;  
 19 18. Providing or obtaining technical support for a plat-  
 20 form, product, or service;  
 21 19. Academic or scholarly research; or  
 22 20. Genealogical research;  
 23 (ii) Where the majority of the content that is posted or created is  
 24 posted or created by the provider of the online service, website,  
 25 or application and the ability to chat, comment, or interact with  
 26 other users is directly related to the provider's content;  
 27 (iii) That is a classified ad service that only permits the sale of  
 28 goods and prohibits the solicitation of personal services; or  
 29 (iv) That is used by and under the direction of an educational en-  
 30 tity, including a learning management system, a student engage-  
 31 ment program, or a subject-specific or skill-specific program.

32 48-2103. AGE REQUIREMENTS FOR USE OF SOCIAL MEDIA PLATFORMS --  
 33 PARENTAL CONSENT. (1) A social media company may not permit an Idaho res-  
 34 ident who is a minor to be an account holder on the social media company's  
 35 social media platform without the express consent of a parent or guardian.

36 (2) Notwithstanding any provision of this chapter, a social media com-  
 37 pany may not permit an Idaho resident who is a minor to hold or open an account  
 38 on a social media platform if the minor is ineligible to hold or open an ac-  
 39 count under any other provision of state or federal law.

40 48-2104. INVESTIGATIVE AND ENFORCEMENT POWERS OF THE ATTORNEY GEN-  
 41 ERAL. (1) The attorney general shall receive consumer complaints alleging a  
 42 violation of this chapter and may investigate such a complaint to determine  
 43 whether a violation occurred.

44 (2) Except for the private right of action pursuant to section 48-2105,  
 45 Idaho Code, the attorney general has the exclusive authority to initiate an  
 46 enforcement action against a social media company that allegedly violates  
 47 the provisions of this chapter if the social media company fails to cure the  
 48 alleged violation after the notification described in this section.

1 (3) (a) At least thirty (30) days before initiating an enforcement ac-  
2 tion against a social media company that is subject to the requirements  
3 of this chapter, the attorney general shall provide the social media  
4 company with written notice that identifies each alleged violation and  
5 an explanation of the basis for each allegation.

6 (b) The attorney general may not initiate an action if the social media  
7 company, within thirty (30) days after the day on which the social me-  
8 dia company receives the notice described in paragraph (a) of this sub-  
9 section, cures the noticed violation and provides the attorney general  
10 with a written statement that the social media company has cured the vi-  
11 olation and no further violations will occur.

12 (4) In any action brought by the attorney general wherein the state pre-  
13 vails, the court shall, in addition to the relief granted, award reasonable  
14 costs, investigative expenses and attorney's fees to the attorney general.  
15 Such costs and fees shall be remitted to the consumer protection fund created  
16 in section 48-606(5), Idaho Code.

17 (5) A social media company who violates an administrative or court or-  
18 der issued for a violation of this chapter is subject to a civil penalty of no  
19 more than five thousand dollars (\$5,000) for each violation. A civil penalty  
20 authorized under this section may be imposed in any civil action brought by  
21 the attorney general. All money received for payment of a civil penalty im-  
22 posed under this section shall be remitted to the consumer protection fund  
23 created in section 48-606(5), Idaho Code.

24 48-2105. PRIVATE RIGHT OF ACTION FOR HARM TO A MINOR. (1) A person may  
25 bring an action under this section against a social media company to recover  
26 damages incurred after January 1, 2025, by an Idaho minor account holder for  
27 a social media company's violation of section 48-2103, Idaho Code.

28 (2) A suit filed pursuant to this section shall be filed in the court for  
29 the district in which the Idaho minor account holder resides.

30 (3) If an Idaho minor account holder seeking recovery of damages under  
31 this section is under sixteen (16) years of age, there shall be a rebuttable  
32 presumption that the harm actually occurred.

33 (4) If a court finds that an Idaho minor account holder has been harmed,  
34 the minor seeking relief pursuant to this section is entitled to:

35 (a) An award of reasonable attorney fees and court costs;

36 (b) An amount equal to the greater of:

37 (i) Two thousand five hundred dollars (\$2,500) for each incident  
38 of harm; or

39 (ii) Actual damages for addiction, financial, physical, and emo-  
40 tional harm incurred by the Idaho minor account holder, if the  
41 court determines that the harm is a direct consequence of the vio-  
42 lation or violations; and

43 (c) Any other relief the court deems appropriate.

44 48-2106. WAIVER PROHIBITED. (1) Notwithstanding any contract or  
45 choice-of-law provision in a contract, a purported waiver or limitation of  
46 any of the provisions of this section is void as unlawful and against public  
47 policy.

1           (2) No court or arbitrator may enforce or give effect to any purported  
2 waiver of:

3           (a) A protection or requirement provided under this chapter;

4           (b) The right to cooperate with the attorney general or to file a com-  
5 plaint with the attorney general;

6           (c) The right to a private right of action as provided under this chap-  
7 ter; or

8           (d) The right to recover actual damages, statutory damages, civil  
9 penalties, costs, or fees as allowed by this chapter.

10           48-2107. SEVERABILITY. The provisions of this chapter are hereby de-  
11 clared to be severable and if any provision of this chapter or the applica-  
12 tion of such provision to any person or circumstance is declared invalid for  
13 any reason, such declaration shall not affect the validity of remaining por-  
14 tions of this chapter.

15           SECTION 2. This act shall be in full force and effect on and after Jan-  
16 uary 1, 2025.