



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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February 5, 2025

The Honorable Jeff Barta, Chair
Senate Committee on Business & Industry
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

RE: SB 2380 relating to a commercial entity's liability for publishing or distributing mature content

Dear Chairman Barta:

I understand the Senate Committee on Business & Industry may soon consider SB 2380 and I wanted to take the opportunity to explain why TechNet opposes this legislation. While TechNet supports efforts to ensure the safety and well-being of children online, we believe the requirements outlined in SB 2380 would impose negative impacts on app developers and hinder their ability to provide age-appropriate and secure online experiences for children.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

We appreciate the intent of this bill and share the commitment to providing a safe and secure online experience for children. TechNet members strongly believe that children deserve a heightened level of security and privacy online, and the industry is actively working to incorporate protective design features into apps, websites, and platforms.

Age Verification

SB 2380 requires app store providers to "determine or estimate the age of the primary user upon activation of a device" and to "provide a website, application, application store, or online service with a digital signal notifying if a primary user is over or under eighteen years of age through a real-time applications programming

interface.” TechNet believes these requirements are vague, cumbersome and ineffective.

As drafted, this would create a digital target on a user that identifies them as a minor to all websites, which is a significant danger for safety, privacy, security, and undermines the intent. This conflicts with data privacy principles like privacy-by-design and data minimization, increases the risk of fraud, and undermines online anonymity.

Further, the bill would require this to be done for every app developer must implement complex age verification mechanisms, driving up development expenses and complicating the user onboarding process. These added costs and technical challenges could be especially prohibitive for smaller developers, potentially forcing them to exit the North Dakota market.

Constitutionality

We believe that there are potential constitutional issues with the bill that are like those identified by courts with other age verification bills. A number of other states that have passed legislation with similar requirements have had those laws challenged and enjoined due to constitutional concerns. Ohio’s *Social Media Parental Notification Act* and Arkansas’ SB 396 are recent examples where courts have enjoined the laws from going into effect due to constitutional deficiencies.

Inefficiencies

Finally, the proposed bill is inherently ineffective in that many of these same websites can be accessed by desktop web browsers or through the sideloading of apps. Targeting app-stores or devices are only one part of the ecosystem and the goal of helping kids keep safe online will not be achieved through this legislation.

For these reasons, TechNet respectfully opposes SB 2380. We welcome the opportunity to continue the conversation on how to better ensure minors have safe and positive online experiences while balancing the need for online safety with the realities of app development.

Please let me know if you have any questions. I appreciate your consideration.

Sincerely,



Rose Feliciano
Executive Director
Washington + Northwest

