

SB 2380 - Testimony in Opposition
Senate Industry and Business Committee
February 10, 2025

Chairman Barta and Members of the Committee,

My name is Terry Effertz, and I serve as the Executive Director of TechND, North Dakota's technology trade association. I appreciate the opportunity to testify before you today in strong opposition to SB 2380.

TechND represents a diverse range of businesses across the technology sector in North Dakota, from software developers and IT firms to broadband providers and data centers. While we fully support efforts to protect minors from inappropriate online content, SB 2380 is deeply flawed in both its approach and its consequences. Rather than achieving its intended purpose, this bill imposes significant technological and legal burdens that will harm innovation, stifle small businesses, and ultimately fail to provide meaningful solutions.

1. SB 2380 Fails to Achieve Its Intended Goal

The bill proposes a framework for age verification that is both untested and unworkable. Device-level age verification, as contemplated in this bill, is not a currently viable or standardized method in the technology sector. No other state has successfully implemented such a requirement, and for good reason—because it is not a practical or effective approach.

Additionally, shifting the burden of compliance to app stores instead of the platforms responsible for content moderation does not address the root of the issue. This bill allows the largest platforms—those with well-documented failures in child safety, such as Meta, Roblox, and Snapchat—to escape responsibility while placing the compliance burden on app stores that already have extensive parental control mechanisms in place. This is not a solution; it is a deflection of accountability.

2. Unintended Consequences for North Dakota's Tech Economy

SB 2380 will have a disproportionate impact on small and mid-sized technology businesses—the very companies that drive innovation in North Dakota. By imposing burdensome compliance requirements on app developers, the bill will create unnecessary legal uncertainty and financial costs, forcing many small companies to exit the North Dakota market or limit their product offerings.

For example, educational apps, health tracking tools, and other beneficial applications that require minimal user data may be forced to comply with complex verification requirements designed for large-scale social media platforms. The compliance burden may lead to companies blocking access for all minors rather than risking liability, ultimately reducing access to safe, beneficial, and educational digital tools.

3. Legal and Constitutional Concerns

There are serious legal questions regarding the constitutionality of SB 2380. Courts have consistently struck down state laws that impose broad online restrictions under the First Amendment and the Commerce Clause. Furthermore, this bill raises concerns regarding the potential violation of federal laws such as the Children's Online Privacy Protection Act (COPPA), which already establishes a framework for protecting minors online.

Moreover, recent litigation suggests that the Supreme Court is likely to scrutinize laws mandating blanket age verification mechanisms, particularly when they shift enforcement responsibility away from content providers and onto broader digital infrastructure. North Dakota risks passing a law that will face immediate legal challenges and inevitable repeal, wasting taxpayer resources in the process.

4. Better Approaches Exist

Rather than imposing ineffective and legally dubious mandates, North Dakota should focus on proven solutions that empower parents, educators, and businesses to work together. This includes:

- **Promoting Existing Parental Control Tools:** Device manufacturers and app stores already offer robust parental control settings that allow parents to manage their children's online experience. These tools are continually improved through industry innovation, without the need for rigid and outdated legislative mandates.
- **Enhancing Digital Literacy Programs:** Educating parents and guardians on how to use existing safety tools and empowering them with resources is far more effective than a government-imposed age verification scheme.
- **Encouraging Industry-Led Best Practices:** Public-private partnerships can drive meaningful change without stifling innovation or placing small businesses at a competitive disadvantage.

Conclusion: SB 2380 Should Receive a DO NOT PASS Recommendation

While the intent of this legislation is understandable, its execution is fundamentally flawed. SB 2380 places an undue burden on technology companies, undermines parental choice, and opens the state to legal challenges—all while failing to accomplish its core objective.

I urge this committee to give SB 2380 a **DO NOT PASS** recommendation and instead pursue alternative approaches that actually enhance online safety for minors without harming North Dakota's tech sector.

Thank you for your time and consideration. I am happy to answer any questions