

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2380

Introduced by

Senators Boehm, Beard, Paulson

Representatives VanWinkle, Steiner, Klemin

1 A BILL for an Act to create and enact a new section to chapter 51-07 of the North Dakota
2 Century Code, relating to a commercial entity's liability for publishing or distributing mature
3 content; to provide a penalty; and to provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 51-07 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Liability for publishing or distributing mature content - Age verification requirement -**
8 **Penalty.**

9 1. As used in this section:

10 a. "Age category" means the category of an individual based on the individual's age,
11 including the following age-based categories:

12 (1) A legal adult who is at least twenty-one years of age;

13 (2) An adult who is at least eighteen years of age and under twenty-one years
14 of age;

15 (3) An older teenager who is seventeen years of age;

16 (4) A teenager who is at least thirteen years of age and under seventeen years
17 of age; and

18 (5) A child who is under thirteen years of age.

19 b. "App" means a software application or electronic service that may be used on a
20 computer, tablet, mobile device, or any other general purpose computing device.

- 1 c. "App store" means a publicly available website, software application, or other
2 electronic service that distributes apps from a third-party developer to a user of a
3 computer, tablet, mobile device, or any other general purpose computing device.
- 4 d. "Covered manufacturer" means a manufacturer of a device, operating system for
5 a device, or an application store.
- 6 b.e. "Device" means an electronic tool or gadget designed for and capable of
7 communicating with other computers or devices across a computer network for
8 the purpose of transmitting, receiving, or storing data, including a desktop
9 computer, laptop computer, tablet, or cell phone.
- 10 e.f. "Mature content" means actual or simulated sexual intercourse, sodomy,
11 bestiality, oral copulation, flagellation, or excretory functions or exhibitions, or any
12 other sexual act or sexually explicit conduct defined in 18 U.S.C. 2256.
- 13 d.g. "Minor" means an individual under eighteen years of age.
- 14 e.h. "Operating system provider" means an entity that develops, distributes, or
15 maintains an operating system for a device. The term includes the design,
16 programming, and supply of an operating system for various devices, including a
17 smartphone, tablet, or other digital equipment.
- 18 f.i. "Substantial portion" means more than one-third of the total material on a
19 website, application, or online service.
- 20 2. A covered manufacturer shall take commercially reasonable and technically feasible
21 steps to:
- 22 a. Determine or estimate the age of the primary user upon activation of a device;
23 and
- 24 b. Provide a website, application, application store, or online service with a digital
25 signal notifying if a primary user is over or under eighteen years of age through a
26 real-time applications programming interface.
- 27 3. A covered manufacturer shall include in operating system updates the provisions of
28 subdivision a of subsection 2 for any device sold before August 1, 2026.
- 29 4. When a website, application, or online service makes available a substantial portion of
30 mature content, the website, application, or online service shall:

- 1 a. Recognize and receive digital age signals and block access to the website,
2 application, or online service if an age signal is received indicating a user is
3 under eighteen years of age.
- 4 b. Provide a disclaimer that the website, application, or online service contains
5 mature content; and
- 6 c. Label the website, application, or online service as restricted to adults.
- 7 5. When a website, application, or online service makes available less than a substantial
8 portion of mature content, the website, application, or online service shall:
- 9 a. Recognize and receive digital age signals and block access to any known mature
10 content on the website, application, or online service if an age signal is received
11 indicating a user is under eighteen years of age; and
- 12 b. Provide a disclaimer the website, application, or online service contains mature
13 content.
- 14 6. An app store provider shall:
- 15 a. Determine the age category and verify the age of each individual located in the
16 state who purchases or uses an app from the app store of the provider by the
17 age verification provided under subsection 2.
- 18 b. Obtain verifiable parental consent before allowing a minor located in the state to
19 download, use, or purchase any app or in-app purchase from an app store of the
20 provider. Verifiable parental consent must be obtained by the app store provider
21 for every purchase or download of an app or in-app purchase.
- 22 c. Provide a commercially available mechanism for a parent to block the download
23 of any app sold or downloaded by the app store in this state unsuitable for the
24 age category of the minor.
- 25 d. Provide a developer the ability to determine, consistent with the provider's current
26 data collection practices:
- 27 (1) The age category of any user located within the state; and
- 28 (2) If the app store has obtained verifiable parental consent through a real-time
29 application programming interface when a minor located in the state uses a
30 developer's app.

- 1 7. An app store provider that operates in the state, owns or controls a mobile operating
2 system of a mobile device, and offers and advertises parental controls must provide a
3 parent with clear and easy to find mechanisms to access the parental controls,
4 including parental controls advertised as:
5 a. Providing filters for a mobile device to prevent a minor from accessing sexually
6 explicit websites on the device's mobile website browser; or
7 b. Allowing a parent to control and limit the use of an app on the mobile device.
8 8. If an app store provider displays an age rating consistent with the age categories and
9 content description, the app store provider must display the age rating and content
10 description clearly, accurately, and prominently.
11 9. If a developer displays an age rating consistent with the age categories and content
12 descriptions, the developer must display the age rating and content description clearly,
13 accurately, and prominently. If an app rating or the nature of a service of the developer
14 changes, a developer must notify each parent and app store provider and obtain
15 additional verifiable parental consent.
16 10. A developer shall:
17 a. Use the application programming interface of a covered app store provider, when
18 available, to verify the age category of a user located in the state, or in the case
19 of a minor, to determine if verifiable parental consent has been obtained before
20 allowing the use of the app or in-app purchase.
21 b. Provide readily available features to a parent located in the state to implement
22 time restrictions for the mobile device, including the ability to view metrics
23 reflecting the amount of time a minor is using an app and to set daily limits on the
24 use of an app by a minor.
25 11. Nothing in this section may be construed to:
26 a. Require an app store provider to display any information about a user to a
27 developer other than the age category of the user and if the app store provider
28 has obtained verifiable parental consent; or
29 b. Allow an app store provider to use any information required by this section in a
30 way that is arbitrary, capricious, anticompetitive, or unlawful.

1 12. A covered manufacturer shall impose the same restrictions and obligations on a
2 website, application, or online service as the covered manufacturer is required to
3 impose on third parties. A covered manufacturer may not use any data collected under
4 this section for any other purpose.

5 ~~7.13.~~ The attorney general may adopt rules as necessary to enforce this section.

6 ~~8.14.~~ The attorney general has exclusive authority to enforce this section.

7 ~~9.15.~~ If the attorney general believes a covered manufacturer or app store is in violation of
8 this section, the attorney general shall provide written notice to the covered
9 manufacturer or app store identifying the specific provision of this section alleged in
10 the violation. The covered manufacturer or app store has forty-five days from the date
11 of receipt to correct the violation and provide the attorney general a written statement
12 informing the alleged violation has been corrected. The attorney general may initiate
13 an action under this section if the covered manufacturer or app store continues to
14 violate this section or fails to correct a violation and provide a written statement within
15 forty-five days.

16 ~~10.16.~~ A covered manufacturer or app store that violates this section is subject to a fine of ten
17 thousand dollars for each violation.

18 ~~11.17.~~ A covered manufacturer or app store is not subject to liability for failure to comply with
19 this section if the covered manufacturer or app store has taken commercially
20 reasonable and technically feasible steps to determine or estimate the age of a user.

21 ~~11.18.~~ This section does not create a private right of action.

22 ~~12.19.~~ This section does not apply to any bona fide news or public interest broadcast,
23 website video, report, or event, and does not affect the rights of any news-gathering
24 organization.

25 ~~13.20.~~ An internet service provider or its affiliates or subsidiaries, a search engine, or a cloud
26 service provider may not be held to have violated this section solely for providing
27 access or connection to or from a website or other information or content on the
28 internet or a facility, system, or network not under the provider's control, including
29 transmission, downloading, intermediate storage, access software, or other forms of
30 access or storage to the extent the provider is not responsible for the creation of the
31 content of the communication that constitutes mature content.

1 | **SECTION 2. EFFECTIVE DATE.** This Act becomes effective on August 1, 2026.