

Senate Bill 467

By: Senators Cowser of the 46th, Gooch of the 51st, Hatchett of the 50th, Robertson of the 29th, Watson of the 11th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 39 of the Official Code of Georgia Annotated, relating to minors, so as to
2 require procedures to validate the age of certain persons using any app; to require app store
3 providers to verify the age of each person with an account; to provide methods for age
4 verification; to require parental consent before minor account holders download an app or
5 make an in-app purchase; to provide for the withdrawal of parental consent; to provide for
6 the renewal of parental consent in certain circumstances; to provide for data sharing
7 regarding age category data and parental consent; to provide for limitations on data sharing;
8 to provide for deceptive business practices; to provide the Attorney General with the
9 authority to enforce provisions of this chapter; to provide for exceptions; to provide for
10 definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 39 of the Official Code of Georgia Annotated, relating to minors, is amended by adding
14 a new chapter to read as follows:

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15

"CHAPTER 716 39-7-1.17 As used in this chapter, the term:18 (1) 'Account holder' means the individual who is associated with a certain mobile device.19 (2) 'Adult' means an individual who is at least 18 years of age.20 (3) 'Age category' means one of the categories of child, younger teenager, older teenager,
21 or adult.22 (4) 'Age category data' means information about an account holder's age category that
23 is collected by an app store provider and is shared with a developer.24 (5) 'Age rating' means one or more classifications that assess the suitability of an app's
25 content and function for different age groups.26 (6) 'App' means a software application or electronic service that a user may run or direct
27 on a mobile device, including preinstalled applications.28 (7) 'App store' means a publicly available website, software application, or electronic
29 service that allows account holders to download apps from third-party developers onto
30 a mobile device.31 (8) 'App store provider' means a person that owns, operates, or controls an app store that
32 allows account holders in the state to download apps onto a mobile device.33 (9) 'Child' means an individual who is under 13 years of age.34 (10) 'Content description' means a description of the specific content elements or
35 functions that informed an app's age rating.36 (11) 'Developer' means a person that owns or controls an app made available through an
37 app store or a preinstalled application.38 (12) 'Minor' means an individual who is under 18 years of age and who is not
39 emancipated.

40 (13) 'Minor account' means an account with an app store provider which has a minor
41 account holder.

42 (14) 'Mobile device' means a phone or general-purpose tablet that:

43 (A) Provides cellular or wireless connectivity;

44 (B) Is capable of connecting to the internet;

45 (C) Runs a mobile operating system; and

46 (D) Is capable of running apps through a mobile operating system.

47 (15) 'Mobile operating system' means software that:

48 (A) Manages mobile device hardware resources;

49 (B) Provide common services for mobile device programs;

50 (C) Controls memory allocation; and

51 (D) Provides interfaces for apps to access device functionality.

52 (16) 'Older teenager' means an individual who is at least 16 years of age but not 18 years
53 of age or older.

54 (17) 'Parent' means, with respect to a minor, an individual who is reasonably believed to
55 be a parent, a legal guardian, an individual with legal custody, or any other individual
56 who has the legal authority to make decisions on behalf of the minor under applicable
57 state law.

58 (18) 'Parent account' means an account with an app store provider that:

59 (A) Is verified to be established by an individual who the app store provider has
60 determined is at least 18 years old or emancipated through the app store provider's age
61 verification methods;

62 (B) Is reasonably believed to be the parent of a minor account holder; and

63 (C) Is affiliated with one or more such minor's accounts.

64 (19) 'Parental consent' means authorization that:

65 (A) Is provided by a parent account on behalf of an associated minor account;

66 (B) Is given after the app store provider has clearly and conspicuously provided the
67 parental consent disclosure as part of the app download, purchase, or in-app purchase
68 process; and

69 (C) Requires the parent to make an affirmative choice to grant or decline consent.

70 (20) 'Parental consent disclosure' means a disclosure containing:

71 (A) The app's or in-app purchase's age rating if the app store provider has an age rating
72 for the app or in-app purchase;

73 (B) The app's or in-app purchase's content description if the app store provider has a
74 content description for the app or in-app purchase;

75 (C) A description of the personal data collected by the app from the account holder;

76 (D) A description of the personal data shared by the app with any third party; and

77 (E) The methods implemented by the developer to protect personal data if any is
78 collected.

79 (21) 'Preinstalled application' means any app, or portion thereof, that is present on a
80 mobile device at the time of purchase, initial activation, or first use by the consumer,
81 including browsers, search engines, and messaging, but excluding core operating system
82 functions, essential device drivers, and applications necessary for basic device operation
83 such as phone, settings, and emergency services applications. Preinstalled applications
84 include apps, or portions thereof, installed or partially installed by the device
85 manufacturer, wireless service provider, retailer, or any other party prior to purchase,
86 initial activation, or first use by the account holder and which may be updated thereafter.

87 (22) 'Significant change' means a modification to an app's terms of service or privacy
88 policy that materially:

89 (A) Changes the categories of data collected, stored, or shared;

90 (B) Alters the app's age rating or content descriptions;

91 (C) Introduces in-app purchases where no in-app purchases were previously present;

92 or

93 (D) Introduces advertisements where no advertisements were previously present.

94 (23) 'Younger teenager' means an individual who is at least 13 years of age but not 16
95 years of age or older.

96 39-7-2.

97 (a) An app store provider shall:

98 (1) For each account, at the time an account holder who is located in this state creates the
99 account with the app store provider or, for existing accounts, no later than July 1, 2027,
100 verify the account holder's age category using either:

101 (A) A commercially available method that is reasonably designed to ensure accuracy;
102 or

103 (B) For minors, a method which includes affirmative age attestation by someone who
104 is reasonably believed to be the parent or legal guardian;

105 (2) For each minor account:

106 (A) Require such minor's account to be affiliated with a parent account; and

107 (B) Obtain parental consent from the holder of any affiliated parent account each time
108 before allowing the minor account to download an app, purchase an app, or make any
109 in-app purchase;

110 (3) After receiving notice of a significant change from a developer:

111 (A) Notify the account holder of the significant change; and

112 (B) For a minor account, notify any associated parent accounts and obtain new parental
113 consent before allowing the minor account access to the significantly changed version
114 of the app;

115 (4) Provide to a developer, in response to a request authorized under Code
116 Section 39-7-3, age category data for an account holder located in this state and the status
117 of parental consent for a minor account;

- 118 (5) Provide a mechanism for a parent account to withdraw consent and notify a
119 developer of such withdrawal; and
- 120 (6) Protect age category data and any associated verification data by:
- 121 (A) Limiting collection and processing of data to that which is necessary for verifying
122 an account holder's age category, obtaining parental consent, and maintaining legally
123 required compliance records; and
- 124 (B) Transmitting age category data using industry standard encryption protocols that
125 ensure data integrity and data confidentiality.
- 126 (b) An app store provider shall not:
- 127 (1) Enforce a contract or terms of service against a minor unless the app store provider
128 has obtained parental consent;
- 129 (2) Knowingly misrepresent the information in the parental consent disclosure; or
- 130 (3) Share age category data or any associated data except as required by this chapter or
131 other provision of law.

132 39-7-3.

133 (a) A developer shall:

- 134 (1) Verify through the app store's data sharing methods age category data or parental
135 consent, as required by the provisions of this chapter:
- 136 (A) At the time an account holder downloads an app, purchases an app, or launches a
137 preinstalled app for the first time;
- 138 (B) When implementing a significant change to the app; or
- 139 (C) To comply with applicable law;
- 140 (2) Notify app store providers of a significant change to an app; and
- 141 (3) Use age category data received through the app store's data sharing methods to
142 enforce any developer created age related restrictions, safety related features, or default
143 settings and ensure compliance with applicable laws and regulations.

144 (b) In addition to any requests regarding age category data provided for in subsection (a)
145 of this Code section, a developer may request age category data:

146 (1) No more than once during any 12 month period to verify:

147 (A) The accuracy of age category data associated with an account holder; or

148 (B) Continued account use within the age category;

149 (2) When there is reasonable suspicion of:

150 (A) Account transfer; or

151 (B) Misuse outside of the age category; or

152 (3) At the time an account holder creates a new account with the developer.

153 (c) When implementing any developer created age related restrictions, safety related
154 features, or default settings, a developer shall use the lowest age category indicated by age
155 category data received through the app store's data sharing methods or any age data
156 independently collected by the developer.

157 (d) A developer shall not:

158 (1) Enforce a contract or terms of service against a minor unless the developer has
159 verified through an app store's data sharing methods that relevant parental consent has
160 been obtained;

161 (2) Knowingly misrepresent any information in the parental consent disclosure; or

162 (3) Share age category data with any other person or entity.

163 39-7-4.

164 The Attorney General shall have authority to initiate any proceedings and to exercise any
165 power or authority in the same manner as if he or she were acting under Part 2 of Article 15
166 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975,' in regards to violations
167 or potential violations of this chapter.

168 39-7-5.

169 (a) A developer is not liable for a violation of this chapter if the developer demonstrates:

170 (1) Reliance in good faith on applicable age category data received through an app store's
171 data sharing methods;

172 (2) Reliance in good faith on notification from an app store provider that parental
173 consent was obtained if the account holder was a minor; and

174 (3) Compliance with all requirements provided for in Code Section 39-7-2.

175 (b) In determining an app's age rating and content description for purposes of Code
176 Section 39-7-2, a developer is not liable for a violation of this chapter if the developer:

177 (1) Uses widely adopted industry standards to determine the app's age category and
178 content description; and

179 (2) Applies those standards consistently and in good faith.

180 (c) The provisions of this Code section shall limit only actions brought pursuant to this
181 chapter and shall not be construed to limit any person's right to pursue any additional civil
182 remedy otherwise allowed by law.

183 39-7-6.

184 Nothing in this chapter shall be construed to prevent an app store provider or developer
185 from:

186 (1) Taking reasonable measures to prevent criminal activity or block, detect, or prevent
187 distribution to minors of unlawful, obscene, or otherwise harmful material;

188 (2) Requiring an app store provider to disclose user information to a developer beyond
189 age category data or status of relevant parental consent;

190 (3) Allowing an app store provider or developer to implement measures required by this
191 chapter in a manner that is arbitrary, capricious, anticompetitive, or unlawful;

192 (4) Requiring a developer to collect, retain, reidentify, or link any information beyond
193 what is necessary to verify age category data as required by this chapter and that which

194 is collected, retained, reidentified, or linked in the developer's ordinary course of
195 business; or

196 (5) Requiring an app store provider or developer to block access to an application that
197 an account holder has downloaded or installed onto a mobile device prior to the effective
198 date of this chapter, except to the extent that:

199 (A) A parent account revokes consent for an affiliated minor account; or

200 (B) There has been a significant change to the application."

201

SECTION 2.

202 All laws and parts of laws in conflict with this Act are repealed.