



2026 South Dakota Legislature

House Bill 1237

Introduced by: **Representative Weems**

1 **An Act to require age verification before an individual may access an application**
 2 **from an online application store, publicly available website, electronic**
 3 **service, or other online platform.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

6 Terms used in this chapter mean:

- 7 (1) "Affirmatively linked," subscribing to or following a social media account;
 8 (2) "Application," an electronic service or software that may be run or directed by a
 9 user on any general-purpose computing device;
 10 (3) "Application store," a publicly available website, electronic service, or platform that
 11 facilitates the procurement and distribution of an application;
 12 (4) "Child," an individual who is less than sixteen years old;
 13 (5) "Developer," any person, entity, or organization that creates, owns, or controls an
 14 application and is responsible for the design, development, maintenance, and
 15 distribution of the application to end users; and
 16 (6) "Manufacturer," any person, entity, or organization that creates, owns, or controls
 17 an application store.

18 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

19 A manufacturer shall take commercially reasonable and technologically feasible
 20 steps to:

- 21 (1) Determine or estimate the age of the individual attempting to procure an
 22 application from the application store;
 23 (2) Obtain the consent of a parent, guardian, or other custodian of an individual
 24 determined or estimated to be a child before allowing the individual to procure an
 25 application from the application store;

- 1 (3) Provide a signal to the developer of an application available on the application store
2 indicating whether a parent, guardian, or other custodian of an individual
3 determined or estimated to be a child has consented to the procurement of the
4 application by the individual;
- 5 (4) Provide the parent, guardian, or other custodian of an individual determined or
6 estimated to be a child with the option to be connected with a developer for the
7 purpose of facilitating parental supervision tools; and
- 8 (5) Provide an application or website with a digital signal, via a real-time application
9 programming interface, indicating that an individual is:
- 10 (a) Less than thirteen years old;
11 (b) At least thirteen years old but less than sixteen years old;
12 (c) At least sixteen years old but less than eighteen years old; or
13 (d) At least eighteen years old.

14 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

- 15 In the course of complying with this chapter, a manufacturer may not use data
16 collected from any third party to:
- 17 (1) Compete with any third party;
18 (2) Give any application developed by the manufacturer service preference relative to
19 an application developed by any third party; or
20 (3) Otherwise use the data or consent mechanism in an anticompetitive manner.

21 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

- 22 A manufacturer must impose at least the same age verification requirements on
23 an application developed by the manufacturer as the manufacturer imposes on an
24 application developed by any developer other than the manufacturer.

25 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

- 26 To the extent applicable and technologically feasible, a developer shall provide
27 readily available features for a parent, guardian, or other custodian to oversee a child's
28 use of the application. The developer shall ensure the application allows the parent,
29 guardian, or other custodian to:
- 30 (1) Restrict the amount of time per day the child is able to access the application;
31 (2) Restrict when the child is able to access an application each day;

- 1 (3) Review metrics that show the amount of time each day that the child is using the
2 application;
3 (4) Review the accounts that are affirmatively linked to the child's account;
4 (5) Determine whether the visibility of the child's account is limited to accounts that
5 are affirmatively linked to the child's account;
6 (6) Review the accounts the child has blocked; and
7 (7) Be notified when a child submits a report to the developer concerning a potential
8 violation of the application's terms of service or other policies.

9 An application or website may rely on age signals and parental consent provided
10 by a manufacturer, pursuant to section 2 of this Act, for the purposes of complying with
11 this section.

12 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

13 Any manufacturer found in violation of section 2, 3, or 4 of this Act is subject to an
14 injunction and liable for a civil penalty in an amount not exceeding five thousand dollars
15 per incident, per affected child. The civil penalty may be assessed and recovered only in
16 a civil action by the attorney general or the state's attorney of the county in which the
17 violation occurred. The attorney general or the state's attorney shall forward any civil
18 penalty collected under this section to the state treasurer for deposit in the general fund.

19 Nothing in this section may be construed to serve as the basis for a new private
20 right of action for any violation of section 2, 3, or 4 of this Act.

21 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

22 Any developer found in violation of section 5 of this Act is subject to an injunction
23 and liable for a civil penalty in an amount not exceeding five thousand dollars per incident,
24 per affected child. The civil penalty may be assessed and recovered only in a civil action
25 by the attorney general or the state's attorney of the county in which the violation
26 occurred. The attorney general or the state's attorney shall forward any civil penalty
27 collected under this section to the state treasurer for deposit in the general fund.

28 Nothing in this section may be construed to serve as the basis for a new private
29 right of action for any violation of section 5 of this Act.

30 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

1 If a manufacturer is not in substantial compliance with the requirements of section
2 2, 3, or 4 of this Act, the attorney general or state's attorney of the county in which the
3 affected child resides must provide written notice to the manufacturer before initiating an
4 action pursuant to section 6 of this Act.

5 If a developer is not in substantial compliance with the requirements of section 5
6 of this Act, the attorney general or state's attorney of the county in which the affected
7 child resides must provide written notice to the developer before initiating an action
8 pursuant to section 7 of this Act.

9 The attorney general or state's attorney shall identify in the notice the specific
10 provision that is alleged to have been violated, and the measures that must be
11 implemented by the platform to prevent future violations.

12 If the manufacturer or developer cures any noticed violation to the satisfaction of
13 the attorney general or notifying state's attorney, and provides the attorney general or
14 notifying state's attorney a written statement under oath that the alleged violation has
15 been cured within ninety days of the notice provided under this section, the manufacturer
16 or developer is not liable for a civil penalty for any cured violation of section 2, 3, 4, or 5
17 of this Act.

18 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

19 Except as otherwise provided, nothing in this chapter may be construed to modify,
20 impair, or supersede the operation of any antitrust law.