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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To prohibit certain platforms from allowing covered users to create or maintain an account or profile on such platforms, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. HOUCHIN introduced the following bill; which was referred to the Committee on _____

A BILL

To prohibit certain platforms from allowing covered users to create or maintain an account or profile on such platforms, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “16 & Up Social Media
5 Act”.

6 **SEC. 2. PROHIBITION ON ACCOUNTS AND PROFILES FOR**
7 **COVERED USERS.**

8 (a) PROHIBITION.—

1 (1) IN GENERAL.—A covered platform may not
2 allow an individual to create or maintain an account
3 or profile on the covered platform if the covered
4 platform knows that the individual is a covered user.

5 (2) TERMINATION OF EXISTING ACCOUNTS.—A
6 covered platform shall—

7 (A) not later than 60 days after the date
8 of the enactment of this section, identify any
9 account or profile of a user on the covered plat-
10 form that the covered platform knows is a cov-
11 ered user;

12 (B) not later than 180 days after the date
13 of the enactment of this section, notify any user
14 of an account or profile identified under sub-
15 paragraph (A) that the covered platform will
16 terminate the account or profile of the user;
17 and

18 (C) not later than 30 days after the date
19 on which a user is notified pursuant to sub-
20 paragraph (B), terminate the account or profile
21 of the user.

22 (3) DELETION OF THE PERSONAL DATA OF A
23 COVERED USER.—

24 (A) IN GENERAL.—Subject to subpara-
25 graph (B), upon termination of an existing ac-

1 count or profile of a user pursuant to para-
2 graph (2), a covered platform shall immediately
3 delete all personal data collected from the user
4 or submitted by the user to the covered plat-
5 form.

6 (B) ACCESS TO PERSONAL DATA BY A COV-
7 ERED USER.—To the extent technically feasible
8 and not in violation of any licensing agreement,
9 a covered platform shall allow the user of an ex-
10 isting account or profile that the covered plat-
11 form has terminated pursuant to paragraph
12 (2), from the date such termination occurs to
13 the date that is 90 days after such date, to re-
14 quest, and shall provide to such user upon such
15 request, a copy of the personal data collected
16 from the user or submitted by the user to the
17 covered platform both—

18 (i) in a manner that is readable and
19 which a reasonable person can understand;
20 and

21 (ii) in a portable, structured, and ma-
22 chine-readable format.

23 (C) COMPLIANCE.—A covered platform
24 shall fulfill a request under subparagraph (B)

1 not later than 45 days after the date on which
2 such request is made to the covered platform.

3 (4) ABILITY TO REMEDY.—Not later than 60
4 days after the date of the enactment of this section,
5 and prior to implementation of paragraph (2), a cov-
6 ered platform shall implement a review process to
7 allow a user to appeal the determination of the cov-
8 ered platform that the user is a covered user. In car-
9 rying out such review process, a covered platform
10 shall—

11 (A) ensure that the review process is clear
12 and accessible;

13 (B) review any evidence submitted by the
14 user and make a determination regarding the
15 appeal not later than 5 days after the date on
16 which the appeal is submitted;

17 (C) limit the personal data or evidence re-
18 quired of the user to what is strictly necessary
19 to verify the age of the user; and

20 (D) not use any personal data or evidence
21 submitted during the review process for any
22 purpose other than evaluating the legitimacy of
23 the appeal and determining whether the user is
24 a covered user, and not retain, sell, transfer, or

1 otherwise use any personal data collected as
2 part of such process.

3 (b) ENFORCEMENT BY THE COMMISSION.—

4 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
5 TICES.—A violation of this section shall be treated
6 as a violation of a regulation under section
7 18(a)(1)(B) of the Federal Trade Commission Act
8 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or decep-
9 tive acts or practices.

10 (2) POWERS OF COMMISSION.—The Commis-
11 sion shall enforce this section in the same manner,
12 by the same means, and with the same jurisdiction,
13 powers, and duties as though all applicable terms
14 and provisions of the Federal Trade Commission Act
15 (15 U.S.C. 41 et seq.) were incorporated into and
16 made a part of this Act. Any person who violates
17 this section shall be subject to the penalties and en-
18 titled to the privileges and immunities provided in
19 the Federal Trade Commission Act.

20 (c) ACTIONS BY STATES.—

21 (1) IN GENERAL.—In any case in which the at-
22 torney general of a State, or an official or agency of
23 a State, has reason to believe that an interest of the
24 residents of such State has been or is threatened or
25 adversely affected by an act or practice in violation

1 of this section, the State, as *parens patriae*, may
2 bring a civil action on behalf of the residents of the
3 State in an appropriate State court or an appro-
4 priate district court of the United States to—

5 (A) enjoin such act or practice;

6 (B) enforce compliance with this section;

7 (C) obtain damages, restitution, or other
8 compensation on behalf of residents of the
9 State; or

10 (D) obtain such other legal and equitable
11 relief as the court may consider to be appro-
12 priate.

13 (2) NOTICE.—Before filing an action under this
14 subsection, the attorney general, official, or agency
15 of the State involved shall provide to the Commis-
16 sion a written notice of such action and a copy of
17 the complaint for such action. If the attorney gen-
18 eral, official, or agency determines that it is not fea-
19 sible to provide the notice described in this para-
20 graph before the filing of the action, the attorney
21 general, official, or agency shall provide written no-
22 tice of the action and a copy of the complaint to the
23 Commission immediately upon the filing of the ac-
24 tion.

25 (3) AUTHORITY OF COMMISSION.—

1 (A) IN GENERAL.—On receiving notice
2 under paragraph (2) of an action under this
3 subsection, the Commission shall have the
4 right—

5 (i) to intervene in the action;

6 (ii) upon so intervening, to be heard
7 on all matters arising therein; and

8 (iii) to file petitions for appeal.

9 (B) LIMITATION ON STATE ACTION WHILE
10 FEDERAL ACTION IS PENDING.—If the Commis-
11 sion or the Attorney General of the United
12 States has instituted a civil action for violation
13 of this Act (referred to in this subparagraph as
14 the “Federal action”), no State attorney gen-
15 eral, official, or agency may bring an action
16 under this subsection during the pendency of
17 the Federal action against any defendant
18 named in the complaint in the Federal action
19 for any violation of this Act alleged in such
20 complaint.

21 (4) RULE OF CONSTRUCTION.—For purposes of
22 bringing a civil action under this subsection, nothing
23 in this Act shall be construed to prevent an attorney
24 general, official, or agency of a State from exercising
25 the powers conferred on the attorney general, offi-

1 cial, or agency by the laws of such State to conduct
2 investigations, administer oaths and affirmations, or
3 compel the attendance of witnesses or the production
4 of documentary and other evidence.

5 (d) RELATIONSHIP TO STATE LAWS.—

6 (1) IN GENERAL.—The provisions of this Act
7 shall preempt any law, rule, requirement, or regula-
8 tion of a State, or a political subdivision of a State,
9 only to the extent that such law, rule, requirement,
10 or regulation conflicts with a provision of this Act.

11 (2) EXCEPTION.—Notwithstanding paragraph
12 (1), nothing in this Act may be construed—

13 (A) to preempt any law, rule, requirement,
14 or regulation of a State, or political subdivision
15 of a State, with respect to contract, tort, or
16 product liability; or

17 (B) to prohibit a State, or a political sub-
18 division of a State, from enacting or enforcing
19 any law, rule, requirement, or regulation that
20 provides greater protection to covered users
21 than the protection provided by the provisions
22 of this Act.

23 (e) EFFECTIVE DATE.—Unless otherwise specified,
24 this section shall take effect on the date that is 1 year
25 after the date of enactment of this section.

1 (f) RULE OF CONSTRUCTION.—Nothing in this Act
2 shall be construed to determine that a platform shall be
3 considered a covered platform based on the content hosted
4 on the platform, or on any basis other than the platform’s
5 use of a design feature.

6 (g) DEFINITIONS.—In this section:

7 (1) COMMISSION.—The term “Commission”
8 means the Federal Trade Commission.

9 (2) COVERED PLATFORM.—The term “covered
10 platform” means a platform that is a website, soft-
11 ware, application, or electronic service connected to
12 the internet that meets the following requirements:

13 (A) Is publicly available for use by con-
14 sumers.

15 (B) Enables the creation of a username or
16 user identifier—

17 (i) that is searchable on the platform
18 by other users through a function made
19 available by the platform; and

20 (ii) that can be followed by or is simi-
21 larly accessible to other users of the plat-
22 form.

23 (C) As the primary purpose of the plat-
24 form, facilitates the sharing and access to user-

1 generated content through text, images, video,
2 audio, or any other interactive medium.

3 (D) Uses a design feature to promote user
4 engagement on the platform.

5 (E) Uses the personal information of the
6 user to advertise, market, or make content rec-
7 ommendations.

8 (3) COVERED USER.—The term “covered user”
9 means an individual under the age of 16.

10 (4) DESIGN FEATURE.—The term “design fea-
11 ture”—

12 (A) means any feature or component of a
13 covered platform that encourages an increase in
14 or increases the frequency of use or time spent
15 by a user who is a covered user with respect to
16 such covered platform; and

17 (B) includes—

18 (i) infinite scrolling or auto play;

19 (ii) rewards or incentives based on
20 frequency of use or time spent;

21 (iii) notifications and push alerts;

22 (iv) badges or other visual award sym-
23 bols based on frequency of use or time
24 spent;

25 (v) appearance altering filters; and

1 (vi) personalized recommendation sys-
2 tems.

3 (5) FULLY AUTOMATED SYSTEM.—The term
4 “fully automated system” means an algorithm the
5 final outputs of which are, once computed, displayed
6 directly to a covered user without review or alter-
7 ation by a covered platform.

8 (6) KNOW; KNOWS.—The term “know” or
9 “knows” means to know or should have known.

10 (7) PERSONAL DATA.—The term “personal
11 data” has the meaning given the term “personal in-
12 formation” in section 1302 of the Children’s Online
13 Privacy Protection Act of 1998 (15 U.S.C. 6501).

14 (8) PERSONALIZED RECOMMENDATION SYS-
15 TEM.—The term “personalized recommendation sys-
16 tem”—

17 (A) means a fully automated system used
18 to suggest, promote, or rank content, including
19 other users, hashtags, and posts, based on the
20 personal information of a user; and

21 (B) does not include a fully automated sys-
22 tem that suggests, promotes, or ranks content
23 based solely on the language, city or town, or
24 age of a user.

1 (9) USER.—The term “user” means, with re-
2 spect to a covered platform, an individual who cre-
3 ates or maintains an account or profile on the cov-
4 ered platform.