

- 1 does not concern the user's previous interactions with
2 media generated or shared by other users;
- 3 (2) The recommendation, prioritization, or selection is
4 based on user-selected privacy or accessibility
5 settings, or technical information concerning the
6 user's device;
- 7 (3) The user expressly and unambiguously requested the
8 specific media, media by the author, creator, or
9 poster of media the user has subscribed to, or media
10 shared by users to a page or group the user has
11 subscribed to, provided that the media is not
12 recommended, selected, or prioritized for display
13 based, in whole or in part, on other information
14 associated with the user or the user's device that is
15 not otherwise permissible under this subdivision;
- 16 (4) The user expressly and unambiguously requested that
17 specific media, media by a specified author, creator,
18 or poster of media the user has subscribed to, or
19 media shared by users to a page or group the user has
20 subscribed to pursuant to paragraph (3) of this
21 subdivision, be blocked, prioritized or deprioritized



1 for display, provided that the media is not
2 recommended, selected, or prioritized for display
3 based, in whole or in part, on other information
4 associated with the user or the user's device that is
5 not otherwise permissible under this subdivision;

6 (5) The media are direct and private communications;

7 (6) The media are recommended, selected, or prioritized
8 only in response to a specific search inquiry by the
9 user;

10 (7) The media recommended, selected, or prioritized for
11 display is exclusively next in a pre-existing sequence
12 from the same author, creator, poster, or source; or

13 (8) The recommendation, prioritization, or selection is
14 necessary to comply with the provisions of this
15 chapter and any regulations promulgated pursuant to
16 this chapter.

17 "Addictive social media platform" means a website, online
18 service, online application, or mobile application, that offers
19 or provides users an addictive feed as a significant part of the
20 services provided by such website, online service, online
21 application, or mobile application.



1 "Covered minor" means a user of a website, online service,
2 online application, or mobile application in the State when the
3 operator has actual knowledge the user is a minor.

4 "Covered operator" means any person, business, or other legal
5 entity, who operates or provides an addictive social media
6 platform.

7 "Covered user" means a user of a website, online service, online
8 application, or mobile application in the State, not acting as
9 an operator, or agent or affiliate of the operator, of such
10 website, online service, online application, or mobile
11 application, or any portion thereof.

12 "Media" means text, an image, or a video.

13 "Minor" means an individual under the age of eighteen.

14 "Parent" means parent or legal guardian.

15 § -B **Prohibition of addictive feeds.** (a) It shall be
16 unlawful for a covered operator to provide an addictive feed to
17 a covered user unless:

18 (1) The covered operator has used commercially reasonable
19 and technically feasible methods to determine that the
20 covered user is not a covered minor; or



1 (2) The covered operator has obtained verifiable parental
2 consent to provide an addictive feed to a covered
3 minor.

4 (b) The attorney general shall promulgate regulations
5 identifying commercially reasonable and technically feasible
6 methods for covered operators to determine if a covered user is
7 a covered minor required pursuant to this section, and any
8 exceptions thereto.

9 (1) In promulgating such regulations, the attorney general
10 shall consider the size, financial resources, and
11 technical capabilities of the addictive social media
12 platform, the costs and effectiveness of available age
13 determination techniques for users of the addictive
14 social media platform, the audience of the addictive
15 social media platform, prevalent practices of the
16 industry of the covered operator, and the impact of
17 the age determination techniques on the covered user's
18 safety, utility, and experience.

19 (2) Such regulations shall also identify the appropriate
20 levels of accuracy that would be commercially
21 reasonable and technically feasible for covered



1 operators to achieve in determining whether a covered
2 user is a covered minor. Such regulations shall set
3 forth multiple commercially reasonable and technically
4 feasible methods for a covered operator to determine
5 if a covered user is a covered minor, including at
6 least one method that either does not rely solely on
7 government issued identification or that allows a
8 covered user to maintain anonymity as to covered
9 operator of the addictive social media platform.

10 (3) Where a covered operator has used commercially
11 reasonable and technically feasible age determination
12 methods in compliance with such regulations and has
13 not determined that a covered user is a covered minor,
14 the covered operator shall operate under the
15 presumption that the covered user is not a covered
16 minor for the purposes of this chapter, unless it
17 obtains actual knowledge that the covered user is a
18 covered minor.

19 (c) Information collected for the purpose of determining a
20 covered user's age under paragraph (b) shall not be used for any
21 purpose other than age determination and shall be deleted



1 immediately after an attempt to determine a covered user's age,
2 except where necessary for compliance with any applicable
3 provisions of state or federal law or regulation.

4 (d) The attorney general shall promulgate regulations
5 identifying methods of obtaining verifiable parental consent
6 pursuant to paragraph (a)(2) of section -B of this chapter.

7 (e) Information collected for the purpose of obtain such
8 verifiable parental consent shall not be used for any other
9 purpose other than obtaining verifiable parental consent and
10 shall be deleted immediately after an attempt to obtain
11 verifiable parental consent, except where necessary for
12 compliance with any applicable provision of state or federal law
13 or regulation.

14 (f) Nothing in this section shall be construed as
15 requiring any operator to give a parent who grants verifiable
16 parental consent any additional or special access to or control
17 over the data or accounts of their child.

18 (g) Nothing in this section shall be construed as
19 preventing any action taken in good faith to restrict access to
20 or availability of media that the covered operator considers to
21 be obscene, lewd, lascivious, filthy, excessively violent,



1 harassing, or otherwise objectionable, whether or not such
2 material is constitutionally protected.

3 § **-C Overnight notifications.** It shall be unlawful for
4 the covered operator of an addictive social media platform to,
5 between the hours of 12 AM and 6 AM Hawaii Standard Time, send
6 notifications concerning an addictive feed to a covered minor
7 unless the operator has obtained verifiable parental consent to
8 send such nighttime notifications.

9 § **-D Parental control.** Nothing in this chapter shall be
10 construed as requiring the operator of an addictive social media
11 platform to give a parent any additional or special access to or
12 control over the data or accounts of their child.

13 § **-E Nondiscrimination.** A covered operator shall not
14 withhold, degrade, lower the quality, or increase the price of
15 any product, service, or feature, other than as necessary for
16 compliance with the provisions of this chapter or any rules or
17 regulations promulgated pursuant to this chapter, to a covered
18 user due to the covered operator not being permitted to provide
19 an addictive feed to such covered user under this chapter.



1 § **-F Rulemaking authority.** The attorney general shall
2 promulgate such rules and regulations as are necessary to
3 effectuate and enforce the provisions of this chapter.

4 § **-G Scope.** (a) This chapter shall apply to conduct
5 that occurs in whole or in part in Hawaii. For purposes of this
6 chapter, conduct takes place wholly outside of Hawaii if the
7 addictive social media platform is accessed by a user who is
8 physically located outside of Hawaii.

9 (b) Nothing in this chapter shall be construed to impose
10 liability for commercial activities or actions by operators
11 subject to 15 U.S.C. §6501 that is inconsistent with the
12 treatment of such activities or actions under 15 U.S.C. §6502.

13 § **-H Remedies.** (a) No earlier than one hundred eighty
14 days after the effective date of this chapter, whenever it
15 appears to the attorney general, either upon complaint or
16 otherwise, that any person, within or outside the State, has
17 engaged in or is about to engage in any of the acts or practices
18 stated to be unlawful in this chapter, the attorney general may
19 bring an action or special proceeding in the name and on behalf
20 of the people of the state of Hawaii to enjoin any violation of
21 this chapter, to obtain restitution of any moneys or property



1 obtained directly or indirectly by any such violation, to obtain
2 disgorgement of any profits or gains obtained directly or
3 indirectly by any such violation, including but not limited to
4 the destruction of unlawfully obtained data, to obtain damages
5 caused directly or indirectly by any such violation, to obtain
6 civil penalties of up to five thousand dollars per violation,
7 and to obtain any such other and further relief as the court may
8 deem proper, including preliminary relief.

9 (b) The attorney general shall maintain a website to
10 receive complaints, information, or referrals from members of
11 the public concerning a covered operator's or social media
12 platform's alleged compliance or non-compliance with the
13 provisions of this chapter."

14 SECTION 2. The Hawaii Revised Statutes is amended by
15 adding a new chapter to be appropriately designated and to read
16 as follows:

17 **"CHAPTER**

18 **§ -A Definitions.** For the purpose of this chapter:
19 "Covered user" means a user of a website, online service, online
20 application, mobile application, or connected device, or portion
21 thereof, in the State who is:



1 (1) Actually known by the operator of such website, online
2 service, online application, mobile application, or
3 connected device to be a minor; or

4 (2) Using a website, online service, online application,
5 mobile application, or connected device primarily
6 directed to minors.

7 "Minor" means an individual under the age of eighteen.

8 "Operator" means any person who operates or provides a website
9 on the internet, online service, online application, mobile
10 application, or connected device, and who, alone or jointly with
11 others, controls the purposes and means of processing personal
12 data. A person that acts as both an operator and processor
13 shall comply with the applicable obligations of an operator and
14 the obligations of a processor, depending on its role with
15 respect to each specific processing of personal data.

16 "Personal data" means any data that identifies or could
17 reasonably be linked, directly or indirectly, with a specific
18 natural person or device.

19 "Process" or "processing" means an operation or set of
20 operations performed on personal data, including but not limited
21 to the collection, use, access, sharing, sale, monetization,



1 analysis, retention, creation, generation, derivation,
2 recording, organization, structuring, storage, disclosure,
3 transmission, disposal, licensing, destruction, deletion,
4 modification, or deidentification of personal data.

5 "Primarily directed to minors" means a website, online service,
6 online application, mobile application, or connected device, or
7 a portion thereof, that is targeted to minors. A website,
8 online service, online application, mobile application, or
9 connected device, or portion thereof, shall not be deemed
10 directed primarily to minors solely because such website, online
11 service, online application, mobile application, or connected
12 device, or portion thereof refers or links to any other website,
13 online service, online application, mobile application, or
14 connected device directed to minors by using information
15 location tools, including a directory, index, reference,
16 pointer, or hypertext link. A website, online service, online
17 application, mobile application, or connected device, or portion
18 thereof, shall be deemed directed to minors when it has actual
19 knowledge that it is collecting personal data of users directly
20 from users of another website, online service, online



1 application, mobile application, or connected device primarily
2 directed to minors.

3 "Sell" means to share personal data for monetary or other
4 valuable consideration. "Selling" shall not include the sharing
5 of personal data for monetary or other valuable consideration to
6 another person as an asset that is part of a merger,
7 acquisition, bankruptcy, or other transaction in which that
8 person assumes control of all or part of the operator's assets
9 or the sharing of personal data with a processor.

10 "Processor" means any person who processes data on behalf of the
11 operator. A person that acts as both an operator and processor
12 shall comply with the applicable obligations of an operator and
13 the obligations of a processor, depending on its role with
14 respect to each specific processing of personal data.

15 "Third-party operator" means an operator who is not the
16 operator:

17 (1) With whom the user intentionally and directly
18 interacts; or

19 (2) That collects personal data from the directed and
20 current interactions with the user.



1 § **-B Privacy protection by default.** (a) Except as
2 provided for in paragraph (f) of this section and section -F
3 of this chapter, an operator shall not process, or allow a
4 processor to process, the personal data of a covered user
5 collected through the use of a website, online service, online
6 application, mobile application, or connected device, or allow a
7 third-party operator to collect the personal data of a covered
8 user collected through the operator's website, online service,
9 online application, mobile application, or connected device
10 unless and to the extent:

11 (1) The covered user is twelve years of age or younger and
12 processing is permitted under 15 U.S.C. § 6502 and its
13 implementing regulations; or

14 (2) The covered user is thirteen years of age or older and
15 processing is strictly necessary for an activity set
16 forth in paragraph (b) of this section, or informed
17 consent has been obtained as set forth in paragraph
18 (c) of this section.

19 (b) The process of personal data of a covered user is
20 permissible where it is strictly necessary for the following
21 permissible purposes:



- 1 (1) Providing or maintaining a specific product or service
2 requested by the covered user;
- 3 (2) Conducting the operator's internal business
4 operations. For purposes of this paragraph, such
5 internal business operations shall not include any
6 activities related to marketing, advertising, research
7 and development, providing products or services to
8 third parties, or prompting covered users to use the
9 website, online service, online application, mobile
10 application, or connected device when it is not in
11 use;
- 12 (3) Identifying and repairing technical errors that impair
13 existing or intended functionality;
- 14 (4) Protecting against malicious, fraudulent, or illegal
15 activity;
- 16 (5) Investigating, establishing, exercising, preparing
17 for, or defending legal claims;
- 18 (6) Complying with federal, state, or local laws, rules,
19 or regulations;
- 20 (7) Complying with a civil, criminal, or regulatory
21 inquiry, investigation, subpoena, or summons by



1 federal, state, local, or other governmental
2 authorities;

3 (8) Detecting, responding to, or preventing security
4 incidents or threats; or

5 (9) Protecting the vital interests of a natural person.

6 (c) To process personal data of a covered user where such
7 processing is not strictly necessary under paragraph (b) of this
8 section, informed consent must be obtained from the covered user
9 either through a device communication or signal pursuant to the
10 provisions of section -E of this chapter or through a
11 request.

12 (1) Requests for such informed consent shall:

13 (i) Be made separately from any other
14 transaction or part of a transaction;

15 (ii) Be made in the absence of any mechanism that
16 has the purpose or substantial effect of
17 obscuring, subverting, or impairing a
18 covered user's decision-making regarding
19 authorization for the processing;

20 (iii) Clearly and conspicuously state that the
21 processing for which the consent is



1 requested is not strictly necessary, and
2 that the covered user may decline without
3 preventing continued use of the website,
4 online service, online application, mobile
5 application, or connected device; and

6 (iv) Clearly present an option to refuse to
7 provide consent as the most prominent
8 option.

9 (2) Such informed consent, once given, shall be freely
10 revocable at any time, and shall be at least as easy
11 to revoke as it was to provide.

12 (3) If a covered user declines to provide or revokes
13 informed consent for processing, another request may
14 not be made for such processing for the following
15 calendar year, however an operator may make available
16 a mechanism that a covered user can use unprompted and
17 at the user's discretion to provide informed consent.

18 (4) If a covered user's device communicates or signals
19 that the covered user declines to provide informed
20 consent for processing pursuant to the provisions of
21 section -E of this chapter, an operator shall not



1 request informed consent for such processing, however
2 an operator may make available a mechanism that a
3 covered user can use unprompted and at the user's
4 discretion to provide informed consent.

5 (d) Except where processing is strictly necessary to
6 provide a product, service, or feature, an operator may not
7 withhold, degrade, lower the quality, or increase the price of
8 any product, service, or feature to a covered user due to the
9 operator not obtaining verifiable parental consent under 15
10 U.S.C. § 6502 and its implementing regulations or informed
11 consent under paragraph (c) of this section.

12 (e) Except as provided for in section -F of this
13 chapter, an operator shall not purchase or sell, or allow a
14 processor or third-party operator to purchase or sell, the
15 personal data of a covered user.

16 (f) Within thirty days of determining or being informed
17 that a user is a covered user, an operator shall:

18 (1) Dispose of, destroy, or delete and direct all of its
19 processors to dispose of, destroy, or delete all
20 personal data of such covered user that it maintains,
21 unless processing such personal data is permitted



1 under 15 U.S.C. § 6502 and its implementing
2 regulations, is strictly necessary for an activity
3 listed in paragraph (b) of this section, or informed
4 consent is obtained as set forth in paragraph (c) of
5 this section; and

6 (2) Notify any third-party operators to whom it knows it
7 disclosed personal data of that covered user, and any
8 third-party operators it knows it allowed to process
9 the personal data that may include the personal data
10 of that user, that the user is a covered user.

11 (g) Except as provided for in section -F of this
12 chapter, prior to disclosing personal data to a third-party
13 operator, or permitting a third-party operator to collect
14 personal data from the operator's website, online service,
15 online application, mobile application, connected device, or
16 portion thereof, the operator shall disclose to the third-party
17 operator:

18 (1) When their website, online service, online
19 application, mobile application, connected device, or
20 portion thereof, is primarily directed to minors; or

21 (2) When the personal data concerns a covered user.



1 § **-C. Processors.** (a) Except as provided for in section
2 -F of this chapter, no operator or processor shall disclose the
3 personal data of a covered user to a third party or allow the
4 processing of the personal data of a covered user by a third
5 party, without a written, binding agreement governing such
6 disclosure or processing. Such agreement shall clearly set
7 forth instructions for the nature and purpose of the processor's
8 processing of the personal data, instructions for using or
9 further disclosing the personal data, and the rights and
10 obligations of both parties.

11 (b) Processors shall process the personal data of covered
12 users only when permitted by the terms of the agreement pursuant
13 to paragraph (a) of this section, unless otherwise required by
14 federal, state, or local laws, rules, or regulations.

15 (c) A processor shall, at the direction of the operator,
16 dispose of, destroy, or delete personal data, and notify any
17 other processor to which it disclosed the personal data of the
18 operator's direction, unless retention of the personal data is
19 required by federal, state, or local laws, rules, or
20 regulations. The processor shall provide evidence of such



1 deletion to the operator within thirty days of the deletion
2 request.

3 (d) A processor shall delete or return to the operator all
4 personal data of covered users at the end of its provision of
5 services, unless retention of the personal data is required by
6 federal, state, or local laws, rules, or regulations. The
7 processor shall provide evidence of such deletion to the
8 operator within thirty days of the deletion request.

9 (e) An agreement pursuant to paragraph (a) of this section
10 shall require that the processor:

11 (1) Process the personal data of covered users only
12 pursuant to the instructions of the operator, unless
13 otherwise required by federal, state, or local laws,
14 rules, or regulations;

15 (2) Assist the operator in meeting the operator's
16 obligations under this chapter. The processor shall,
17 taking into account the nature of processing and the
18 information available to them, assist the operator by
19 taking appropriate technical and organizational
20 measures, to the extent practicable, for the
21 fulfillment of the operator's obligation to delete



1 personal data pursuant to section -B of this
2 chapter;

3 (3) Upon reasonable request of the operator, make
4 available to the operator all information in its
5 possession necessary to demonstrate the processor's
6 compliance with the obligations in this section;

7 (4) Allow, and cooperate with, reasonable assessments by
8 the operator or the operator's designated assessor for
9 purposes of evaluating compliance with the obligations
10 of this chapter. Alternatively, the processor may
11 arrange for a qualified and independent assessor to
12 conduct an assessment of the processor's policies and
13 technical and organizational measures in support of
14 the obligations under this chapter using an
15 appropriate and accepted control standard or framework
16 and assessment procedure for such assessments. The
17 processor shall provide a report of such assessment to
18 the operator upon request; and

19 (5) Notify the operator a reasonable time in advance
20 before disclosing or transferring the personal data of
21 covered users to any further processors, which may be



1 in the form of a regularly updated list of further
2 processors that may access personal data of covered
3 users.

4 **§ -D Ongoing coverage.** (a) Upon learning that a user
5 is no longer a covered user, an operator:

6 (1) Shall not process the personal data of the covered
7 user that would otherwise be subject to the provisions
8 of this chapter until it receives informed consent
9 pursuant to paragraph (c) of section -B of this
10 chapter, and

11 (2) Shall provide notice to such user that they may no
12 longer be entitled to all of the protections and
13 rights provided under this chapter.

14 (b) Upon learning that a user is no longer a covered user,
15 an operator shall provide notice to such user that such user is
16 no longer covered by the protections and rights provided under
17 this chapter.

18 **§ -E Respecting user-provided age flags.** (a) For the
19 purposes of this chapter, an operator shall treat a user as a
20 covered user if the user's device communicates or signals that
21 the user is or shall be treated as a minor, including through a



1 browser plug-in or privacy setting, device setting, or other
2 mechanism that complies with regulations promulgated by the
3 attorney general.

4 (b) For the purposes of paragraph (c) of section -B of
5 this chapter, an operator shall adhere to any clear and
6 unambiguous communications or signals from a covered user's
7 device, including through a browser plug-in or privacy setting,
8 device setting, or other mechanism, concerning processing that
9 the covered user consents to or declines to consent to. An
10 operator shall not adhere to unclear or ambiguous communications
11 or signals from a covered user's device and shall instead
12 request informed consent pursuant to the provisions of section
13 -B of this chapter.

14 **§ -F Protections for third-party operators.** (a)
15 Sections -B and -C of this chapter shall not apply where
16 a third-party operator is processing the personal data of a
17 covered user of another website, online service, online
18 application, mobile application, or connected device, or portion
19 thereof, provided that the third-party operator received
20 reasonable written representations that the covered user
21 provided informed consent for such processing, or:



1 (1) The operator does not have actual knowledge that the
2 covered user is a minor; and

3 (2) The operator does not have actual knowledge that the
4 other website, online service, online application,
5 mobile application, or connected device, or portion
6 thereof, is primarily directed to minors.

7 § -G **Rulemaking authority.** The attorney general may
8 promulgate such rules and regulations as are necessary to
9 effectuate and enforce the provisions of this chapter.

10 § -H **Scope.** (a) This chapter shall apply to conduct
11 that occurs in whole or in part in the state of Hawaii. For
12 purposes of this chapter, commercial conduct takes place wholly
13 outside of the state of Hawaii if the business collected such
14 information while the covered user was outside of the state of
15 Hawaii, no part of the use of the covered user's personal data
16 occurred in the state of Hawaii, and no personal data collected
17 while the covered user was in the state of Hawaii is used.

18 (b) Nothing in this chapter shall be construed to prohibit
19 an operator from storing a covered user's personal data that was
20 collected pursuant to section -B of this chapter when such
21 covered user is in the state.



1 (c) Nothing in this chapter shall be construed to impose
2 liability for commercial activities or actions by operators
3 subject to 15 U.S.C. § 6501 that is inconsistent with the
4 treatment of such activities or actions under 15 U.S.C. § 6502.

5 § -I Remedies. Whenever it appears to the attorney
6 general, either upon complaint or otherwise, that any person,
7 within or outside the state, has engaged in or is about to
8 engage in any of the acts or practices stated to be unlawful in
9 this chapter, the attorney general may bring an action or
10 special proceeding in the name and on behalf of the people of
11 the state of Hawaii to enjoin any violation of this chapter, to
12 obtain restitution of any moneys or property obtained directly
13 or indirectly by any such violation, to obtain disgorgement of
14 any profits or gains obtained directly or indirectly by any such
15 violation, including but not limited to the destruction of
16 unlawfully obtained data, to obtain damages caused directly or
17 indirectly by any such violation, to obtain civil penalties of
18 up to five thousand dollars per violation, and to obtain any
19 such other and further relief as the court may deem proper,
20 including preliminary relief.



H.B. NO. 566

1 SECTION 3. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 4. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 5. In codifying the new chapters added by section
11 1 and 2 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new section in this Act.

14 SECTION 6. This Act shall take effect on July 1, 2025.

15

INTRODUCED BY:

James M. Schmitz
JAN 17 2025



H.B. NO. 566

Report Title:

Minors; Social Media; Addictive Content; Privacy; Data; Protection

Description:

Protects minors from addictive content by imposing special requirements for operators regarding consent, notifications, and age verification. Protects minors from having their online personal data processed without parental consent.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

