

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2609

By Delegates Hillenbrand, Horst, Masters, Ridenour,
Sheedy, Hite, Moore, Mazzocchi, Eldridge, and Dillon

[Introduced February 19, 2025; referred to the
Committee on Energy and Public Works then the
Judiciary]

1 A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by inserting thereto a
2 new article, designated §47-29-1, §47-29-2, §47-29-3, and §47-29-4; relating to
3 empowering parents with control over software application downloads for children under
4 16; setting forth definitions; and establishing penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 29. PARENTAL CONTROL OF SOFTWARE APPLICATION DOWNLOADS.

§47-29-1.

Definitions.

1 (a) As used in this article:

2 (1) "Application" means a software application or online service that is intended to be run or
3 directed by a user on a computer, mobile device, or any other general purpose computing device.

4 (2) "Child" or "children," means an individual consumer or consumers known to be under
5 sixteen years of age.

6 (3) "Application Store" means a publicly available website, software application, or online
7 service that distributes third party platform software applications to a computer, a mobile device, or
8 any other general purpose computing device.

9 (4) "Covered Manufacturer" means a manufacturer of a device, an operating system for a
10 device, or an Application Store.

11 (5) "Developer" means any person, entity, or organization that creates, owns, or controls
12 an application and is responsible for the design, development, maintenance, and distribution of
13 the application to users through an application store.

14 (6) "Device" means a device or a portion of a device that is designed for and capable of
15 communicating across a computer network with other computers or devices for the purpose of
16 transmitting, receiving, or storing data, including, but not limited to, a desktop, laptop, cellular
17 telephone, tablet, or other device designed for and capable of communicating with or across a
18 computer network and that is used for such purpose.

19 (7) "Parent" or "parental" includes legal guardians.

20 (8) "User" or "users" means an individual consumer or consumers.

§47-29-2. Empowering Parents to Protect their Children.

1 (a) On and after January 1, 2026, a covered manufacturer shall take commercially
2 reasonable and technically feasible steps to:

3 (1) Upon initial activation of a device, determine or estimate the age of the device's primary
4 user;

5 (2) If the covered manufacturer is an application store:

6 (A) Obtain parental consent prior to permitting a known child to download an application
7 from the application store;

8 (B) Provide developers in the application store a signal regarding whether a parent has
9 provided consent under this subsection, and

10 (C) Provide the parent with the option to connect the developer of such application with the
11 approving parent for the purpose of facilitating parental supervision tools;

12 (3) Provide developers with a digital signal via a real time application programming
13 interface regarding whether a user is:

14 (A) Under 13 years of age;

15 (B) At least 13 years of age, and under sixteen years of age;

16 (C) At least 16 years of age, and under eighteen years of age; or

17 (D) At least 18 years of age.

18 (4) Developers may rely on age signals and parental consent provided under subsection
19 (b)(1) for purposes of complying with state law.

20 (b)(1) On and after January 1, 2026, a developer with actual knowledge that a user is under
21 18 years of age, via receipt of a signal regarding a user's age in accordance with section (a)(3),
22 shall, to the extent applicable and technically feasible, provide readily available features for
23 parents to support a user under the age of 18 with respect to their use of the service and as
24 appropriate to the risks that arise from use of the application, including features to help manage

25 which accounts are affirmatively linked to the user under the age of 18, to help manage the
26 delivery of age appropriate content, and to limit the amount of time that the user under the age of
27 18 spends daily on the website, application, or online service.

28 (2) For devices sold prior to January 1, 2026, covered manufacturers shall ensure that the
29 requirements under subsection (b) are included in its operating system and app store versions and
30 updates by default after January 1, 2027.

§47-29-3. Prohibition on Anticompetitive Conduct.

1 (a)(1) Nothing in this section shall be construed to modify, impair, or supersede the
2 operation of any antitrust law, including Chapter 1331 of the Revised Code and 15 U.S.C. § 1, et
3 seq.

4 (2) An application store shall comply with this section in a nondiscriminatory manner,
5 including by:

6 (A) Imposing at least the same restrictions and obligations on its own applications and
7 application distribution as it does on those from third-party applications or application distributors;

8 (B) Not using data collected from third parties, or consent mechanisms deployed for third
9 parties, in the course of compliance with this section, for any of the following:

10 (i) To compete against those third parties;

11 (ii) To give the application store's services preference relative to those of third parties;

12 (iii) To otherwise use the data or consent mechanism in an anticompetitive manner.

§47-29-4. Enforcement.

1 (a)(1) At least 45 days before the date on which the Attorney General initiates an
2 enforcement action against a person that is subject to the requirements of this section, the
3 Attorney General shall provide the person with a written notice that identifies each alleged violation
4 and an explanation of the basis for each allegation.

5 (2) The Attorney General shall not initiate an action if the person cures the violation or
6 violations described in the notice within 45 days after the notice is sent and provides the Attorney

7 General with a written statement indicating that the violation is cured and that no further violations
8 will occur.

9 (3) If a person continues to violate this section in breach of an express written notice
10 provided under section (a)(1), the Attorney General may bring a civil action and seek damages for
11 up to \$2,500 per violation of this act not to exceed \$50,000. Damages shall begin accruing after
12 completion of the 45-day cure period in subsection (a)(2). Nothing in this section shall be
13 construed to provide a private right of action. The Attorney General has the exclusive authority to
14 enforce this section.

15 (4) Section (a)(2) does not apply if the person fails to timely cure all of the violations
16 described in the notice or commits a subsequent violation of the same type after curing the initial
17 violation under that division.

18 (5) It is an affirmative defense to a violation of §47-29-2(b) if the developer acted in
19 reasonable reliance on the application store's determination or estimate that the user is not a child.

20 (6) A covered manufacturer shall not be subject to liability for failure to comply with this
21 section if that covered manufacturer has taken commercially reasonable and technically feasible
22 steps to determine or estimate the age of the device's user as provided in §47-29-2(a).

23 (b) This Chapter does not apply to any of the following:

24 (1) A broadband internet access service;

25 (2) A telecommunications service, as defined in 47 U.S.C. 153, and any website,
26 application, or online service provided by the telecommunications service in furtherance or
27 support of administering its services;

28 (3) The delivery or use of a physical product unconnected to the internet.

NOTE: The purpose of this bill is to empower parents with control over software app downloads for children under 16.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.