

By: Representatives Ford (73rd), Nelson,
Byrd

To: Technology; Judiciary B

HOUSE BILL NO. 1126

1 AN ACT TO CREATE THE "WALKER MONTGOMERY PROTECTING CHILDREN
2 ONLINE ACT" FOR THE PURPOSE OF PROTECTING MINOR CHILDREN FROM
3 ONLINE HARMFUL MATERIAL AND ACCESS TO SUCH MATERIAL; TO LIMIT THE
4 COLLECTION AND USE OF MINOR USERS' PERSONAL IDENTIFYING
5 INFORMATION; TO REQUIRE DIGITAL SERVICE PROVIDERS TO IMPLEMENT
6 SAFETY STRATEGIES TO PREVENT MINOR USERS' EXPOSURE TO HARMFUL
7 MATERIAL; TO AMEND SECTION 75-24-5, MISSISSIPPI CODE OF 1972, TO
8 PROVIDE THAT A VIOLATION OF THIS ACT IS AN UNFAIR AND DECEPTIVE
9 TRADE PRACTICE THAT IS ENFORCEABLE BY THE OFFICE OF THE ATTORNEY
10 GENERAL; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** This act shall be known and may be cited as the
13 "Walker Montgomery Protecting Children Online Act."

14 **SECTION 2.** For purposes of this act, the following words
15 shall have the meanings ascribed herein unless the context clearly
16 requires otherwise:

17 (a) "Digital service" means a website, an application,
18 a program, or software that collects or processes personal
19 identifying information with Internet connectivity.

20 (b) "Digital service provider" means a person who:

21 (i) Owns or operates a digital service;



22 (ii) Determines the purpose of collecting and
23 processing the personal identifying information of users of the
24 digital service; and

25 (iii) Determines the means used to collect and
26 process the personal identifying information of users of the
27 digital service.

28 (c) "Harmful material" means material that is harmful
29 to minors as defined by Section 11-77-3(d).

30 (d) "Known minor" means a child who is younger than
31 eighteen (18) years of age who has not had the disabilities of
32 minority removed for general purposes, and who the digital service
33 provider knows to be a minor.

34 (e) "Personal identifying information" means any
35 information, including sensitive information, that is linked or
36 reasonably linkable to an identified or identifiable individual.
37 The term includes pseudonymous information when the information is
38 used by a controller or processor in conjunction with additional
39 information that reasonably links the information to an identified
40 or identifiable individual. The term does not include
41 deidentified information or publicly available information.

42 **SECTION 3.** (1) This act applies only to a digital service
43 provider who provides a digital service that:

44 (a) Connects users in a manner that allows users to
45 socially interact with other users on the digital service;



46 (b) Allows a user to create a public, semi-public or
47 private profile for purposes of signing into and using the digital
48 service; and

49 (c) Allows a user to create or post content that can be
50 viewed by other users of the digital service, including sharing
51 content on:

52 (i) A message board;

53 (ii) A chat room; or

54 (iii) A landing page, video channel or main feed
55 that presents to a user content created and posted by other users.

56 (2) This act does not apply to:

57 (a) A digital service provider who processes or
58 maintains user data in connection with the employment, promotion,
59 reassignment or retention of the user as an employee or
60 independent contractor, to the extent that the user's data is
61 processed or maintained for that purpose;

62 (b) A digital service provider's provision of a digital
63 service that facilitates e-mail or direct messaging services, if
64 the digital service facilitates only those services; or

65 (c) A digital service provider's provision of a digital
66 service that:

67 (i) Primarily functions to provide a user with
68 access to news, sports, commerce or content primarily generated or
69 selected by the digital service provider; and



70 (ii) Allows chat, comment or other interactive
71 functionality that is incidental to the digital service.

72 (3) Unless an Internet service provider, Internet service
73 provider's affiliate or subsidiary, search engine or cloud service
74 provider is responsible for the creation of harmful material or
75 other content described by Section 6 of this act, the Internet
76 service provider, Internet service provider's affiliate or
77 subsidiary, search engine or cloud service provider is not
78 considered to be a digital service provider or to offer a digital
79 service if the Internet service provider or provider's affiliate
80 or subsidiary, search engine or cloud service provider solely
81 provides access or connection, including through transmission,
82 download, intermediate storage, access software or other service,
83 to an Internet website or to other information or content:

84 (a) On the Internet; or

85 (b) On a facility, system or network not under the
86 control of the Internet service provider, provider's affiliate or
87 subsidiary, search engine or cloud service provider.

88 **SECTION 4.** A digital service provider may not enter into an
89 agreement with a person to create an account with a digital
90 service unless the person has registered the person's age with the
91 digital service provider.

92 **SECTION 5.** (1) A digital service provider that enters into
93 an agreement with a known minor for access to a digital service
94 shall:



95 (a) Limit collection of the known minor's personal
96 identifying information to information reasonably necessary to
97 provide the digital service; and

98 (b) Limit use of the known minor's personal identifying
99 information to the purpose for which the information was
100 collected; and

101 (2) A digital service provider that enters into an agreement
102 with a known minor for access to a digital service may not:

103 (a) Use the digital service to collect the known
104 minor's precise geolocation data;

105 (b) Use the digital service to display targeted
106 advertising involving harmful material to the known minor; or

107 (c) Share, disclose or sell the known minor's personal
108 identifying information unless required to:

109 (i) Comply with a civil, criminal or regulatory
110 inquiry, investigation, subpoena or summons by a governmental
111 entity;

112 (ii) Comply with a law enforcement investigation;

113 (iii) Detect, block, or prevent the distribution
114 of unlawful, obscene or other harmful material to a known minor;

115 (iv) Block or filter spam;

116 (v) Prevent criminal activity; or

117 (vi) Protect the security of a digital service.

118 **SECTION 6.** In relation to a known minor's use of a digital
119 service, a digital service provider shall develop and implement a



120 strategy to prevent the known minor's exposure to harmful material
121 and other content that promotes, glorifies or facilitates:

- 122 (a) Suicide, self-harm or eating disorders;
- 123 (b) Substance abuse or use of illegal drugs;
- 124 (c) Stalking, bullying or harassment;
- 125 (d) Grooming, trafficking, child pornography or other
126 sexual exploitation or abuse;
- 127 (e) Incitement of violence; or
- 128 (f) Any other illegal activity.

129 **SECTION 7.** (1) Except as provided by subsection (2) of this
130 section, this act may not be construed as providing a basis for,
131 or being subject to, a private right of action for a violation of
132 this act.

133 (2) If a digital service provider violates this act, the
134 parent or guardian of a known minor affected by that violation may
135 bring a cause of action seeking:

- 136 (a) A declaratory judgment under Rule 57 of Mississippi
137 Rules of Civil Procedure; or
- 138 (b) An injunction against the digital service provider.

139 (3) A court may not certify an action brought under this
140 section as a class action.

141 **SECTION 8.** Section 75-24-5, Mississippi Code of 1972, is
142 amended as follows:

143 75-24-5. (1) Unfair methods of competition affecting
144 commerce and unfair or deceptive trade practices in or affecting



145 commerce are prohibited. Action may be brought under Section
146 75-24-5(1) only under the provisions of Section 75-24-9.

147 (2) Without limiting the scope of subsection (1) of this
148 section, the following unfair methods of competition and unfair or
149 deceptive trade practices or acts in the conduct of any trade or
150 commerce are hereby prohibited:

151 (a) Passing off goods or services as those of another;

152 (b) Misrepresentation of the source, sponsorship,
153 approval, or certification of goods or services;

154 (c) Misrepresentation of affiliation, connection, or
155 association with, or certification by another;

156 (d) Misrepresentation of designations of geographic
157 origin in connection with goods or services;

158 (e) Representing that goods or services have
159 sponsorship, approval, characteristics, ingredients, uses,
160 benefits, or quantities that they do not have or that a person has
161 a sponsorship, approval, status, affiliation, or connection that
162 he does not have;

163 (f) Representing that goods are original or new if they
164 are reconditioned, reclaimed, used, or secondhand;

165 (g) Representing that goods or services are of a
166 particular standard, quality, or grade, or that goods are of a
167 particular style or model, if they are of another;

168 (h) Disparaging the goods, services, or business of
169 another by false or misleading representation of fact;



170 (i) Advertising goods or services with intent not to
171 sell them as advertised;

172 (j) Advertising goods or services with intent not to
173 supply reasonably expectable public demand, unless the
174 advertisement discloses a limitation of quantity;

175 (k) Misrepresentations of fact concerning the reasons
176 for, existence of, or amounts of price reductions;

177 (l) Advertising by or on behalf of any licensed or
178 regulated health care professional which does not specifically
179 describe the license or qualifications of the licensed or
180 regulated health care professional;

181 (m) Charging an increased premium for reinstating a
182 motor vehicle insurance policy that was cancelled or suspended by
183 the insured solely for the reason that he was transferred out of
184 this state while serving in the United States Armed Forces or on
185 active duty in the National Guard or United States Armed Forces
186 Reserve. It is also an unfair practice for an insurer to charge
187 an increased premium for a new motor vehicle insurance policy if
188 the applicant for coverage or his covered dependents were
189 previously insured with a different insurer and canceled that
190 policy solely for the reason that he was transferred out of this
191 state while serving in the United States Armed Forces or on active
192 duty in the National Guard or United States Armed Forces Reserve.
193 For purposes of determining premiums, an insurer shall consider
194 such persons as having maintained continuous coverage. The



195 provisions of this paragraph (m) shall apply only to such
196 instances when the insured does not drive the vehicle during the
197 period of cancellation or suspension of his policy;

198 (n) Violating the provisions of Section 75-24-8; * * *

199 (o) Violating the provisions of Section 73-3-38 * * *;

200 and

201 (p) Violating provisions of Section 1 through 7 of this
202 act.

203 **SECTION 9.** This act shall take effect and be in force from
204 and after July 1, 2024.

