

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 644
Apr 17, 2023
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10282-LRa-77C

Short Title: Social Media Algorithmic Control in IT Act. (Public)

Sponsors: Representative McNeely.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO COMBAT SOCIAL MEDIA ADDICTION BY REQUIRING THAT ONLINE
3 PLATFORMS WITH MORE THAN ONE MILLION USERS IN NORTH CAROLINA
4 RESPECT THE PRIVACY OF ALL USERS' DATA AND NOT USE A MINOR'S DATA
5 FOR ADVERTISING OR ALGORITHMIC RECOMMENDATIONS AND TO MAKE
6 WILLFUL VIOLATIONS OF DATA USER PRIVACY AN UNFAIR PRACTICE UNDER
7 G.S. 75-1.1.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Effective October 1, 2024, Chapter 75 of the General Statutes is
10 amended by adding a new Article to read:

11 "Article 2B.

12 "Social Media Algorithmic Control in Information Technology Act.

13 "**§ 75-70. Title; definitions.**

14 (a) This Article shall be known and may be cited as the "Social Media Algorithmic
15 Control in Information Technology Act."

16 (b) Definitions. – The following definitions apply in this Article:

17 (1) Algorithmic recommendation system. – A fully or partially automated system
18 used to suggest, promote, or rank information.

19 (2) Minor. – An individual who is age 18 or younger.

20 (3) Operator. – As defined in section 1302 of the Children's Online Privacy
21 Protection Act of 1998, 15 U.S.C. § 6501.

22 (4) Social media algorithm. – The software used by social media platforms to
23 prioritize content and direct the prioritized content to the user.

24 (5) Social media platform or platform. – An electronic medium, including a
25 browser-based or application-based interactive computer service, telephone
26 network, or data network, that allows users to create, share, and view
27 user-generated content. The term does not include internet search providers or
28 electronic mail.

29 (6) User data. – Any data collected directly or indirectly from or concerning a
30 user.

31 "**§ 75-71. User data privacy; targeting minors prohibited; registry.**

32 (a) Privacy Requirements. – The General Assembly finds that unhealthy social media use
33 has been linked to depression, anxiety, eating disorders, and suicidal ideation, especially among
34 young people. Exploitation of user data can result in users being targeted in ways that increase
35 unhealthy social media use. It is the policy of this State that user data shall be respected by



1 platforms. Special protections are warranted for users who are minors. Therefore, the operator of
2 a social media platform shall comply with all of the following requirements:

- 3 (1) The platform's privacy policy must be accessible on the platform's website
4 with the disclosure of how user data will be used by the platform stated in a
5 succinct and easy to understand statement that communicates the true intent
6 of the use in less than 250 words.
- 7 (2) User data may be used in algorithmic recommendations only when the user
8 has been notified and consents to the use of the data in such manner.
- 9 (3) Requests for data access that will be used to inform algorithmic
10 recommendations shall require full disclosure of the use of the data, including
11 third-party use. This notification shall be separate and distinct from the
12 platform's terms of service notification.
- 13 (4) The platform must be fully functional for a user without the user having to
14 give consent for their user data to be used to inform algorithmic
15 recommendations.
- 16 (5) The platform must use an age verification system that requires a user to
17 self-attest to their age.

18 Beginning October 1, 2024, and then annually thereafter, a social media platform shall
19 provide the Consumer Protection Division of the North Carolina Department of Justice
20 (Division) with a digital copy of the platform's privacy policy and certification that the platform
21 has complied with the requirements of this subsection. Platforms shall provide notice of
22 substantive privacy policy changes to the registry. The Division shall maintain a registry of these
23 policies and certifications on its internet website.

24 (b) Targeting Minors Prohibited. – The operator of a social media platform must control
25 algorithmic recommendation systems so that no minor's user data is used:

- 26 (1) To inform content recommendations to the minor. This requirement is not
27 intended to prevent algorithmic recommendations from being shown as a
28 direct result of explicit actions, such as showing posts from accounts a user
29 follows in a chronological feed, but it is intended to prevent any data,
30 including follows, from being used in an algorithm to generate algorithmic
31 recommendations.
- 32 (2) To inform what advertisements or promotions are shown to minors. This
33 requirement is not intended to prevent the showing of advertisements or
34 promotions that are shown to the user based upon explicit actions, such as
35 being based on the results of a search initiated by the user on the platform.

36 The operator of a social media platform may be held liable for violating this subsection if the
37 operator of the social media platform knew or had reason to know that the user was a minor. The
38 operator of a social media platform that has made an estimation of a user's age based upon the
39 user's self-attestation is not liable if the user was a minor who falsely attested to not being a
40 minor.

41 (c) Exceptions. – A social media algorithm that is intended to block access to
42 inappropriate or harmful content to an account holder that is a minor is exempt from the
43 requirements of this section.

44 **"§ 75-72. Investigation; enforcement; private right of action.**

45 (a) Violations. – Effective January 1, 2025, a platform's violation of this Article is an
46 unfair or deceptive act or practice under G.S. 75-1.1.

47 (b) Investigations. – The Attorney General shall monitor social media platforms for
48 compliance with this Article.

49 (c) Complaints. – A user may make a complaint to the Attorney General alleging that a
50 social media platform has failed to comply with the requirements of this Article. The Attorney
51 General may bring a civil action in any case in which the Attorney General has reason to believe

1 that the interest of the residents of this State has been or is threatened due to noncompliance with
2 this Article.

3 (d) Private Right of Action. – No private right of action may be brought by an individual
4 for a violation of this Article unless the individual is harmed as a result of the violation.

5 **"§ 75-73. North Carolina Data Privacy Task Force.**

6 (a) There is created the North Carolina Data Privacy Task Force (Task Force) within the
7 Department of Justice for budgetary purposes only.

8 (b) The Task Force shall be composed of 21 members. The ex officio members listed in
9 subdivisions (1) through (6) of this subsection may designate representatives from their particular
10 departments, divisions, or offices to represent them on the Task Force. In making appointments
11 or designating representatives, appointing authorities and ex officio members shall use best
12 efforts to select members or representatives with sufficient knowledge and experience to
13 effectively contribute to the issues examined by the Task Force and, to the extent possible, to
14 reflect the geographical, political, gender, and racial diversity of this State. The members shall
15 be as follows:

16 (1) The Attorney General.

17 (2) The State Chief Information Officer.

18 (3) The Secretary of the Department of Health and Human Services.

19 (4) The Director of the State Bureau of Investigation.

20 (5) The Director of the Maternal and Child Health Section of the Department of
21 Health and Human Services.

22 (6) The Director of the Division of Mental Health, Developmental Disabilities,
23 and Substance Abuse Services.

24 (7) A representative from NC Child, appointed by the Governor upon
25 recommendation of the President of the organization.

26 (8) A representative from a private group, other than NC Child, that advocates for
27 children, appointed by the Governor upon recommendation of private child
28 advocacy organizations.

29 (9) A pediatrician, licensed to practice medicine in North Carolina, appointed by
30 the President Pro Tempore of the Senate.

31 (10) A psychiatrist, licensed to practice medicine in North Carolina, appointed by
32 the Speaker of the House of Representatives.

33 (11) Two public members, one of whom is an educator, appointed by the Speaker
34 of the House of Representatives.

35 (12) Two public members, one of whom is a social worker, appointed by the
36 President Pro Tempore of the Senate.

37 (13) Two members of the Senate, appointed by the President Pro Tempore of the
38 Senate, and two members of the House of Representatives, appointed by the
39 Speaker of the House of Representatives.

40 (14) A representative from the North Carolina Young People's Alliance, appointed
41 by the Governor upon recommendation of the head of the organization.

42 (15) Two youth representatives under the age of 21 appointed by the Secretary of
43 the Department of Health and Human Services after conducting an
44 application-based selection process.

45 (c) All members of the Task Force are voting members. Vacancies in the appointed
46 membership shall be filled by the appointing officer who made the initial appointment. Terms
47 shall be two years. The members shall elect a chair who shall preside for the duration of the
48 chair's term as member. In the event a vacancy occurs in the chair before the expiration of the
49 chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired
50 term.

1 (d) Beginning March 15, 2024, and then annually thereafter, the Task Force shall report
2 to the General Assembly on its work, with a special focus on mental health issues related to social
3 media, along with findings, recommendations, and any legislative proposals."

4 **SECTION 2.** Effective July 1, 2023, there is appropriated from the General Fund to
5 the Department of Justice the sum of one hundred thousand dollars (\$100,000) for the 2023-2024
6 fiscal year to develop the registry created in G.S. 75-71, as enacted by this act.

7 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
8 law.