

By: Paxton, et al. S.B. No. 2420
(Fairly, Patterson, González of El Paso, Button)

Substitute the following for S.B. No. 2420:

By: Button C.S.S.B. No. 2420

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of platforms for the sale and
distribution of software applications for mobile devices.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is
amended by adding Chapter 121 to read as follows:

CHAPTER 121. SOFTWARE APPLICATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 121.001. SHORT TITLE. This chapter may be cited as the
App Store Accountability Act.

Sec. 121.002. DEFINITIONS. In this chapter:

(1) "Age category" means information collected by the
owner of an app store to designate a user based on the age
categories described by Section 121.021(b).

(2) "App store" means a publicly available Internet
website, software application, or other electronic service that
distributes software applications from the owner or developer of a
software application to the user of a mobile device.

(3) "Minor" means a child who is younger than 18 years
of age who has not had the disabilities of minority removed for
general purposes.

(4) "Mobile device" means a portable, wireless
electronic device, including a tablet or smartphone, capable of
transmitting, receiving, processing, and storing information

1 wirelessly that runs an operating system designed to manage
2 hardware resources and perform common services for software
3 applications on handheld electronic devices.

4 (5) "Personal data" means any information, including
5 sensitive data, that is linked or reasonably linkable to an
6 identified or identifiable individual. The term includes
7 pseudonymous data when the data is used by a person who processes or
8 determines the purpose and means of processing the data in
9 conjunction with additional information that reasonably links the
10 data to an identified or identifiable individual. The term does not
11 include deidentified data or publicly available information.

12 SUBCHAPTER B. DUTIES OF APP STORES

13 Sec. 121.021. DUTY TO VERIFY AGE OF USER; AGE CATEGORIES.

14 (a) When an individual in this state creates an account with an app
15 store, the owner of the app store shall use a commercially
16 reasonable method of verification to verify the individual's age
17 category under Subsection (b).

18 (b) The owner of an app store shall use the following age
19 categories for assigning a designation:

20 (1) an individual who is younger than 13 years of age
21 is considered a "child";

22 (2) an individual who is at least 13 years of age but
23 younger than 16 years of age is considered a "younger teenager";

24 (3) an individual who is at least 16 years of age but
25 younger than 18 years of age is considered an "older teenager"; and

26 (4) an individual who is at least 18 years of age is
27 considered an "adult."

1 Sec. 121.022. PARENTAL CONSENT REQUIRED. (a) If the owner
2 of the app store determines under Section 121.021 that an
3 individual is a minor who belongs to an age category that is not
4 "adult," the owner shall require that the minor's account be
5 affiliated with a parent account belonging to the minor's parent or
6 guardian.

7 (b) For an account to be affiliated with a minor's account
8 as a parent account, the owner of an app store must use a
9 commercially reasonable method to verify that the account belongs
10 to an individual who:

11 (1) the owner of the app store has verified belongs to
12 the age category of "adult" under Section 121.021; and

13 (2) has legal authority to make a decision on behalf of
14 the minor with whose account the individual is seeking affiliation.

15 (c) A parent account may be affiliated with multiple minors'
16 accounts.

17 (d) Except as provided by this section, the owner of an app
18 store must obtain consent from the minor's parent or guardian
19 through the parent account affiliated with the minor's account
20 before allowing the minor to:

21 (1) download a software application;

22 (2) purchase a software application; or

23 (3) make a purchase in or using a software
24 application.

25 (e) The owner of an app store must:

26 (1) obtain consent for each individual download or
27 purchase sought by the minor; and

1 (2) notify the developer of each applicable software
2 application if a minor's parent or guardian revokes consent through
3 a parent account.

4 (f) To obtain consent from a minor's parent or guardian
5 under Subsection (d), the owner of an app store may use any
6 reasonable means to:

7 (1) disclose to the parent or guardian:

8 (A) the specific software application or
9 purchase for which consent is sought;

10 (B) the rating under Section 121.052 assigned to
11 the software application or purchase;

12 (C) the specific content or other elements that
13 led to the rating assigned under Section 121.052;

14 (D) the nature of any collection, use, or
15 distribution of personal data that would occur because of the
16 software application or purchase; and

17 (E) any measures taken by the developer of the
18 software application or purchase to protect the personal data of
19 users;

20 (2) give the parent or guardian a clear choice to give
21 or withhold consent for the download or purchase; and

22 (3) ensure that the consent is given:

23 (A) by the parent or guardian; and

24 (B) through the account affiliated with a minor's
25 account under Subsection (a).

26 (g) If a software developer provides the owner of an app
27 store with notice of a change under Section 121.053, the owner of

1 the app store shall:

2 (1) notify any individual who has given consent under
3 this section for a minor's use or purchase relating to a previous
4 version of the changed software application; and

5 (2) obtain consent from the individual for the minor's
6 continued use or purchase of the software application.

7 (h) The owner of an app store is not required to obtain
8 consent from a minor's parent or guardian for:

9 (1) the download of a software application that:

10 (A) provides a user with direct access to
11 emergency services, including:

12 (i) 9-1-1 emergency services;

13 (ii) a crisis hotline; or

14 (iii) an emergency assistance service that
15 is legally available to a minor;

16 (B) limits data collection to information:

17 (i) collected in compliance with the
18 Children's Online Privacy Protection Act of 1998 (15 U.S.C. Section
19 6501 et seq.); and

20 (ii) necessary for the provision of
21 emergency services;

22 (C) allows a user to access and use the software
23 application without requiring the user to create an account with
24 the software application; and

25 (D) is operated by or in partnership with:

26 (i) a governmental entity;

27 (ii) a nonprofit organization; or

(iii) an authorized emergency service provider; or

(2) the purchase or download of a software application that is operated by or in partnership with a nonprofit organization that:

(A) develops, sponsors, or administers a standardized test used for purposes of admission to or class placement in a postsecondary educational institution or a program within a postsecondary educational institution; and

(B) is subject to Subchapter D, Chapter 32, Education Code.

Sec. 121.023. DISPLAY OF AGE RATING FOR SOFTWARE APPLICATION. (a) If the owner of an app store that operates in this state has a mechanism for displaying an age rating or other content notice, the owner shall:

(1) make available to users an explanation of the mechanism; and

(2) display for each software application available for download and purchase on the app store the age rating and other content notice.

(b) If the owner of an app store that operates in this state does not have a mechanism for displaying an age rating or other content notice, the owner shall display for each software application available for download and purchase on the app store:

(1) the rating under Section 121.052 assigned to the software application; and

(2) the specific content or other elements that led to

1 the rating assigned under Section 121.052.

2 (c) The information displayed under this section must be
3 clear, accurate, and conspicuous.

4 Sec. 121.024. INFORMATION FOR SOFTWARE APPLICATION
5 DEVELOPERS. The owner of an app store that operates in this state
6 shall, using a commercially available method, allow the developer
7 of a software application to access current information related to:

8 (1) the age category assigned to each user under
9 Section 121.021(b); and

10 (2) whether consent has been obtained for each minor
11 user under Section 121.022.

12 Sec. 121.025. PROTECTION OF PERSONAL DATA. The owner of an
13 app store that operates in this state shall protect the personal
14 data of users by:

15 (1) limiting the collection and processing of personal
16 data to the minimum amount necessary for:

17 (A) verifying the age of an individual;

18 (B) obtaining consent under Section 121.022; and

19 (C) maintaining compliance records; and

20 (2) transmitting personal data using
21 industry-standard encryption protocols that ensure data integrity
22 and confidentiality.

23 Sec. 121.026. VIOLATION. (a) The owner of an app store
24 that operates in this state violates this subchapter if the owner:

25 (1) enforces a contract or a provision of a terms of
26 service agreement against a minor that the minor entered into or
27 agreed to without consent under Section 121.022;

1 (2) knowingly misrepresents information disclosed
2 under Section 121.022(f)(1);

3 (3) obtains a blanket consent to authorize multiple
4 downloads or purchases; or

5 (4) shares or discloses personal data obtained for
6 purposes of Section 121.021, except as required by Section 121.024
7 or other law.

8 (b) The owner of an app store is not liable for a violation
9 of Section 121.021 or 121.022 if the owner of the app store:

10 (1) uses widely adopted industry standards to:

11 (A) verify the age of each user as required by
12 Section 121.021; and

13 (B) obtain parental consent as required by
14 Section 121.022; and

15 (2) applies those standards consistently and in good
16 faith.

17 Sec. 121.027. CONSTRUCTION OF SUBCHAPTER. Nothing in this
18 subchapter may be construed to:

19 (1) prevent the owner of an app store that operates in
20 this state from taking reasonable measures to block, detect, or
21 prevent the distribution of:

22 (A) obscene material, as that term is defined by
23 Section [43.21](#), Penal Code; or

24 (B) other material that may be harmful to minors;

25 (2) require the owner of an app store that operates in
26 this state to disclose a user's personal data to the developer of a
27 software application except as provided by this subchapter;

1 (3) allow the owner of an app store that operates in
2 this state to use a measure required by this chapter in a manner
3 that is arbitrary, capricious, anticompetitive, or unlawful;
4 (4) block or filter spam;
5 (5) prevent criminal activity; or
6 (6) protect the security of an app store or software
7 application.

8 SUBCHAPTER C. DUTIES OF SOFTWARE APPLICATION DEVELOPERS

9 Sec. 121.051. APPLICABILITY OF SUBCHAPTER. This subchapter
10 applies only to the developer of a software application that the
11 developer makes available to users in this state through an app
12 store.

13 Sec. 121.052. DESIGNATION OF AGE RATING. (a) The developer
14 of a software application shall assign to each software application
15 and to each purchase that can be made through the software
16 application an age rating based on the age categories described by
17 Section 121.021(b).

18 (b) The developer of a software application shall provide to
19 each app store through which the developer makes the software
20 application available:

21 (1) each rating assigned under Subsection (a); and
22 (2) the specific content or other elements that led to
23 each rating provided under Subdivision (1).

24 Sec. 121.053. CHANGES TO SOFTWARE APPLICATIONS. (a) The
25 developer of a software application shall provide notice to each
26 app store through which the developer makes the software
27 application available before making any significant change to the

terms of service or privacy policy of the software application.

(b) For purposes of this section, a change is significant if it:

(1) changes the type or category of personal data collected, stored, or shared by the developer;

(2) affects or changes the rating assigned to the software application under Section 121.052 or the content or elements that led to that rating;

(3) adds new monetization features to the software application, including:

(A) new opportunities to make a purchase in or using the software application; or

(B) new advertisements in the software application; or

(4) materially changes the functionality or user experience of the software application.

Sec. 121.054. AGE VERIFICATION. (a) The developer of a software application shall create and implement a system to use information received under Section 121.024 to verify:

(1) for each user of the software application, the age category assigned to that user under Section 121.021(b); and

(2) for each minor user of the software application, whether consent has been obtained under Section 121.022.

(b) The developer of a software application shall use information received from the owner of an app store under Section 121.024 to perform the verification required by this section.

Sec. 121.055. USE OF PERSONAL DATA. (a) The developer of a

software application may use personal data provided to the developer under Section 121.024 only to:

(1) enforce restrictions and protections on the software application related to age;

(2) ensure compliance with applicable laws and regulations; and

(3) implement safety-related features and default settings.

(b) The developer of a software application shall delete personal data provided by the owner of an app store under Section 121.024 on completion of the verification required by Section 121.054.

Sec. 121.056. VIOLATION. (a) Except as provided by this section, the developer of a software application violates this subchapter if the developer:

(1) enforces a contract or a provision of a terms of service agreement against a minor that the minor entered into or agreed to without consent under Section 121.054;

(2) knowingly misrepresents an age rating or reason for that rating under Section 121.052; or

(3) shares or discloses the personal data of a user that was acquired under this subchapter.

(b) The developer of a software application is not liable for a violation of Section 121.052 if the software developer:

(1) uses widely adopted industry standards to determine the rating and specific content required by this section;

and

1 (2) applies those standards consistently and in good
2 faith.

3 (c) The developer of a software application is not liable
4 for a violation of Section 121.054 if the software developer:

5 (1) relied in good faith on age category and consent
6 information received from the owner of an app store; and

7 (2) otherwise complied with the requirements of this
8 section.

9 SUBCHAPTER D. ENFORCEMENT

10 Sec. 121.101. DECEPTIVE TRADE PRACTICE. A violation of
11 this chapter constitutes a deceptive trade practice in addition to
12 the practices described by Subchapter E, Chapter 17, and is
13 actionable under that subchapter.

14 Sec. 121.102. CUMULATIVE REMEDIES. The remedies provided
15 by this chapter are not exclusive and are in addition to any other
16 action or remedy provided by law.

17 SECTION 2. It is the intent of the legislature that every
18 provision, section, subsection, sentence, clause, phrase, or word
19 in this Act, and every application of the provisions in this Act to
20 every person, group of persons, or circumstances, is severable from
21 each other. If any application of any provision in this Act to any
22 person, group of persons, or circumstances is found by a court to be
23 invalid for any reason, the remaining applications of that
24 provision to all other persons and circumstances shall be severed
25 and may not be affected.

26 SECTION 3. This Act takes effect January 1, 2026.