

House Bill 3696

Sponsored by Representative RESCHKE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes a new law about kids and apps. App stores must check the age of people who use their apps and group them into age categories. Before kids can download, buy or use apps, or make purchases inside an app, their parents must say yes. App developers must show clear age ratings for their apps, and parents can set time limits on how long their kids can use the apps. The law also makes sure app stores have tools to block certain content from kids. Provides for penalties if the law is not followed. (Flesch Readability Score: 83.9).

Requires application stores and developers to verify the age of users and categorize them accordingly. Requires application stores to obtain parental consent before allowing a minor to download, purchase or use software applications, or making purchases available within a software application. Requires developers to display accurate age ratings for software applications and provide tools for parents to limit usage time. Mandates that application stores offer parental controls and prevent certain content from being accessible to minors. Provides that a violation of the law is an unlawful trade practice.

Allows the Attorney General to bring an action or impose civil penalties to enforce requirements.

Allows parents to bring a civil action if the law is violated.

Directs the Department of Justice to convene a temporary advisory committee.

A BILL FOR AN ACT

1
2 Relating to the use of software applications by minors; creating new provisions; and amending ORS
3 646.608.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. Definitions. As used in sections 1 to 5 of this 2025 Act:

5
6 (1) **"Age group categories" means individuals grouped by age as follows for the purposes**
7 **of accessing software applications based on the software application's age rating. The age**
8 **categories are as follows:**

9 (a) **Adults are individuals who are at least 21 years of age;**

10 (b) **Young Adults are individuals who are at least 18 years of age but under 21 years of**
11 **age;**

12 (c) **Older Teenagers are individuals who are 17 years of age;**

13 (d) **Teenagers are individuals who are at least 13 years of age but under 17 years of age;**

14 **and**

15 (e) **Children are individuals who are under 13 years of age.**

16 (2) **"Application store" means a publicly available Internet website, software application**
17 **or other electronic service that distributes a software application from a third-party devel-**
18 **oper to a user of a computer or mobile device.**

19 (3) **"Application store provider" means a person who owns or controls a software appli-**
20 **cation store available in this state.**

21 (4) **"Developer" means a person who owns or controls a software application distributed**
22 **through an application store available in this state.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (5) "Minor" means an individual who is under 18 years of age and who is unmarried and
2 unemancipated.

3 (6) "Mobile device" means an electronic computing device that is capable of accessing the
4 Internet and running a mobile operating system.

5 (7) "Mobile operating system" means software that manages mobile device hardware re-
6 sources and provides common services for mobile device software applications.

7 (8) "Parent" means an individual who is not a minor and who is legally responsible for a
8 minor's welfare.

9 (9) "Personal information" means the following information that identifies an individual:

10 (a) Name;

11 (b) Social security number;

12 (c) Driver license, driver permit or identification card number; or

13 (d) Access code, security code or personal identification number to access a mobile device
14 or financial accounts.

15 (10) "Signal" means a set of age-bracketed data sent by a real-time secure application
16 programming interface or operating system.

17 **SECTION 2. Duties of application store providers.** (1) An application store provider shall,
18 for each individual located in this state who downloads or purchases a software application
19 from the provider's application store:

20 (a) Use a commercially reasonable method to verify the individual's age; and

21 (b) Determine the age group category for the individual based on the age rating for the
22 software application.

23 (2) An application store provider shall verify the age of a minor's parent before allowing
24 a minor located in this state to:

25 (a) Use the provider's application store;

26 (b) Download a software application from the provider's application store;

27 (c) Purchase a software application from the provider's application store;

28 (d) Use a software application from the provider's application store; or

29 (e) Make a purchase within the software application using the provider's application
30 store.

31 (3) Before obtaining the parent's consent, the application store provider shall disclose
32 information to the parent identifying what is specifically being consented to, including the
33 minimum age, content descriptors and age rating for the software application or purchases
34 available within the software application. The application store provider shall give the parent
35 a clear choice to consent or decline to consent to the request.

36 (4) By default, an application store provider shall obtain parental consent for each indi-
37 vidual download, purchase or use as required under subsection (2) of this section. An appli-
38 cation store provider may allow a parent to modify this default if the parent wishes to
39 provide parental consent for multiple downloads, purchases or uses.

40 (5) An application store provider shall provide a commercially reasonable mechanism for
41 a parent of a minor located in this state to allow the download of any software application
42 from the provider's application store that is suitable for a minor's age group category or
43 block the download of any software application that is unsuitable for a minor's age group
44 category, based on the software application's age rating.

45 (6) An application store provider who owns or controls a mobile device's mobile operating

1 system and offers parental controls, including filters to prevent a minor from accessing
2 Internet websites that display sexually explicit conduct on the mobile device and mechanisms
3 that allow a parent to control usage limits for the mobile device, shall provide clear and
4 easy-to-find mechanisms for a parent to access the parental controls.

5 (7) If an application store provider displays age ratings consistent with age group cate-
6 gories and content descriptions, the application store provider shall ensure the age ratings
7 and content descriptions are clearly accurately and prominently displayed.

8 (8) An application store provider shall allow a developer to request a signal so the de-
9 veloper may determine the age group category of an individual who is using the developer's
10 software application while located in this state and whether the application store has ob-
11 tained parental consent under this section for the individual to use the developer's software
12 application. An application store provider may not disclose any personal information about
13 an individual to a developer other than the individual's age group category and whether the
14 application store provider has obtained parental consent.

15 (9) An application store provider may take reasonable measures to:

16 (a) Block, detect or prevent the distribution of sexually explicit conduct, profane or ob-
17 scene material to minors;

18 (b) Block or filter spam or prevent criminal activity; or

19 (c) Protect the security of an application store or software application.

20 (10) Violation of this section is an unlawful practice under ORS 646.608.

21 (11) As used in this section, "sexually explicit conduct" has the meaning given that term
22 in ORS 163.665.

23 **SECTION 3. Developer obligations.** (1) When available, a developer shall use the applica-
24 tion programming interface of an application store provider to:

25 (a) Obtain a signal from an application store provider to verify the age group category
26 of an individual who is using the developer's software application while located in this state;
27 and

28 (b) Determine whether the application store provider has obtained parental consent and
29 the purpose for which the consent has been obtained.

30 (2) If a developer displays age ratings consistent with age group categories and content
31 descriptions, the developer shall ensure the age ratings and content descriptions are clearly,
32 accurately and prominently displayed. If a software application's age rating or the nature of
33 the developer's services change, the developer shall notify all application store providers who
34 distribute the developer's software application and obtain additional parental consent.

35 (3) A developer shall provide readily accessible features for a parent of a minor located
36 in this state to implement time restrictions on using the developer's software application,
37 including allowing the parent to view metrics reflecting the amount of time the minor is
38 using the software application and setting daily time limits on the minor's use of the soft-
39 ware application.

40 (4) A developer may not knowingly or with gross negligence incorrectly display a software
41 application's age rating or content description on an application store.

42 (5) It is a defense to an action brought against a developer for a violation of subsection
43 (1) of this section that the developer relied on an application store provider's signal and no-
44 tice of parental consent from the application store provider.

45 (6) The Attorney General may adopt rules to carry out the provisions of sections 2 and

1 3 of this 2025 Act.

2 **SECTION 4. Penalties.** (1) The Attorney General may bring a civil action in the name of
 3 the State of Oregon against a person who violates section 2 or 3 of this 2025 Act or rule of
 4 the Department of Justice for the purpose of seeking an injunction to restrain an actual or
 5 threatened violation of section 2 or 3 of this 2025 Act or rule adopted under section 3 of this
 6 2025 Act and compel compliance with sections 2 and 3 of this 2025 Act or rule of the de-
 7 partment.

8 (2) If a court determines that a person violated section 2 or 3 of this 2025 Act or rule of
 9 the department, the court shall order the disgorgement of any profits, gain, gross receipts
 10 or other benefit from the violation. All moneys disgorged under this subsection must be de-
 11 posited in the General Fund.

12 (3) In any action brought pursuant to subsection (1) of this section, the state may re-
 13 cover the costs of the investigation, the costs of the action and reasonable attorney fees.

14 (4) In addition to bringing an action under subsection (1) of this section, the department
 15 may impose a civil penalty of up to \$10,000 for each violation of the provisions of section 2
 16 or 3 of this 2025 Act or rules adopted by the department under section 3 of this 2025 Act.

17 (5) Each day of continuing violation shall be considered a separate violation for the pur-
 18 poses of subsection (4) of this section. A civil penalty imposed under this section must be
 19 imposed in the manner provided by ORS 183.745.

20 (6) Unless expressly provided otherwise, the remedies or penalties under this section are
 21 cumulative to each other and to the remedies available under all other laws of this state.

22 **SECTION 5. Advisory committee.** (1) The Department of Justice shall convene a software
 23 application age rating advisory committee.

24 (2) The membership of the advisory committee shall consist of parents, content creators,
 25 software application developers and representatives of public interest groups focused on child
 26 welfare.

27 (3) The advisory committee shall issue a report by the end of each calendar year to the
 28 department that contains recommendations on how to increase transparency and consist-
 29 ency regarding the age rating of software applications offered on application stores available
 30 in this state. The department shall make the reports from the committee publicly available.

31 (4) The department shall review the annual reports issued by the advisory committee and
 32 update rules adopted by the department as necessary based on the recommendations of the
 33 advisory committee.

34 **SECTION 6.** Section 5 of this 2025 Act is repealed on January 2, 2028.

35 **SECTION 7. Civil action.** (1) As used in this section, “minor” and “parent” have the
 36 meanings given those terms in section 1 of this 2025 Act.

37 (2) A parent of a minor located in this state may bring an action for failure to comply
 38 with section 2 or 3 of this 2025 Act.

39 (3) A plaintiff who prevails in a claim described in this section may recover:

40 (a) Economic or noneconomic damages, as those terms are defined in ORS 31.705;

41 (b) Statutory damages of \$500 per day for each day that the prohibited conduct occurred;

42 (c) Injunctive relief;

43 (d) Reasonable attorney fees; and

44 (e) Any other appropriate equitable relief.

45 **SECTION 8.** ORS 646.608, as amended by section 6, chapter 410, Oregon Laws 2023, is amended

1 to read:

2 646.608. (1) A person engages in an unlawful practice if in the course of the person's business,
3 vocation or occupation the person does any of the following:

4 (a) Passes off real estate, goods or services as the real estate, goods or services of another.

5 (b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-
6 proval, or certification of real estate, goods or services.

7 (c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-
8 ciation with, or certification by, another.

9 (d) Uses deceptive representations or designations of geographic origin in connection with real
10 estate, goods or services.

11 (e) Represents that real estate, goods or services have sponsorship, approval, characteristics,
12 ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have
13 or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the
14 person does not have.

15 (f) Represents that real estate or goods are original or new if the real estate or goods are de-
16 teriorated, altered, reconditioned, reclaimed, used or secondhand.

17 (g) Represents that real estate, goods or services are of a particular standard, quality, or grade,
18 or that real estate or goods are of a particular style or model, if the real estate, goods or services
19 are of another.

20 (h) Disparages the real estate, goods, services, property or business of a customer or another
21 by false or misleading representations of fact.

22 (i) Advertises real estate, goods or services with intent not to provide the real estate, goods or
23 services as advertised, or with intent not to supply reasonably expectable public demand, unless the
24 advertisement discloses a limitation of quantity.

25 (j) Makes false or misleading representations of fact concerning the reasons for, existence of,
26 or amounts of price reductions.

27 (k) Makes false or misleading representations concerning credit availability or the nature of the
28 transaction or obligation incurred.

29 (L) Makes false or misleading representations relating to commissions or other compensation to
30 be paid in exchange for permitting real estate, goods or services to be used for model or demon-
31 stration purposes or in exchange for submitting names of potential customers.

32 (m) Performs service on or dismantles any goods or real estate if the owner or apparent owner
33 of the goods or real estate does not authorize the service or dismantling.

34 (n) Solicits potential customers by telephone or door to door as a seller unless the person pro-
35 vides the information required under ORS 646.611.

36 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give
37 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
38 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or
39 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,
40 discount or other value is contingent upon an event occurring after the time the customer enters
41 into the transaction.

42 (p) Makes any false or misleading statement about a prize, contest or promotion used to publi-
43 cize a product, business or service.

44 (q) Promises to deliver real estate, goods or services within a certain period of time with intent
45 not to deliver the real estate, goods or services as promised.

- 1 (r) Organizes or induces or attempts to induce membership in a pyramid club.
- 2 (s) Makes false or misleading representations of fact concerning the offering price of, or the
3 person's cost for real estate, goods or services.
- 4 (t) Concurrent with tender or delivery of any real estate, goods or services, fails to disclose any
5 known material defect or material nonconformity.
- 6 (u) Engages in any other unfair or deceptive conduct in trade or commerce.
- 7 (v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers,
8 consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situ-
9 ation.
- 10 (w) Manufactures mercury fever thermometers.
- 11 (x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal
12 law, or is:
 - 13 (A) Prescribed by a person licensed under ORS chapter 677; and
 - 14 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and
15 on the proper cleanup of mercury should breakage occur.
- 16 (y) Sells a thermostat that contains mercury, unless the thermostat is labeled in a manner to
17 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be
18 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
19 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
20 graph, "thermostat" means a device commonly used to sense and, through electrical communication
21 with heating, cooling or ventilation equipment, control room temperature.
- 22 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains
23 mercury light switches.
 - 24 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.
 - 25 (bb) Violates ORS 646A.070 (1).
 - 26 (cc) Violates any requirement of ORS 646A.030 to 646A.040.
 - 27 (dd) Violates the provisions of ORS 128.801 to 128.898.
 - 28 (ee) Violates ORS 646.883 or 646.885.
 - 29 (ff) Violates ORS 646.569 or 646A.374.
 - 30 (gg) Violates the provisions of ORS 646A.142.
 - 31 (hh) Violates ORS 646A.360.
 - 32 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
 - 33 (jj) Violates ORS 646.563.
 - 34 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.
 - 35 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
36 thereto.
 - 37 (mm) Violates ORS 646A.210 or 646A.214.
 - 38 (nn) Violates any provision of ORS 646A.124 to 646A.134.
 - 39 (oo) Violates ORS 646A.095.
 - 40 (pp) Violates ORS 822.046.
 - 41 (qq) Violates ORS 128.001.
 - 42 (rr) Violates ORS 646A.800 (2) to (4).
 - 43 (ss) Violates ORS 646A.090 (2) to (5).
 - 44 (tt) Violates ORS 87.686.
 - 45 (uu) Violates ORS 646A.803.

- 1 (vv) Violates ORS 646A.362.
 2 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
 3 (xx) Violates ORS 180.440 (1) or 180.486 (1).
 4 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
 5 (zz) Violates ORS 87.007 (2) or (3).
 6 (aaa) Violates ORS 92.405 (1), (2) or (3).
 7 (bbb) Engages in an unlawful practice under ORS 646.648.
 8 (ccc) Violates ORS 646A.365.
 9 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858.
 10 (eee) Sells a gift card in violation of ORS 646A.276.
 11 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
 12 (ggg) Violates ORS 646A.430 to 646A.450.
 13 (hhh) Violates a provision of ORS 744.318 to 744.384.
 14 (iii) Violates a provision of ORS 646A.702 to 646A.720.
 15 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
 16 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the
 17 subject of the violation.
 18 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
 19 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
 20 U.S.C. 3901 et seq., as in effect on January 1, 2010.
 21 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
 22 (nnn) Violates ORS 646A.082.
 23 (ooo) Violates ORS 646.647.
 24 (ppp) Violates ORS 646A.115.
 25 (qqq) Violates a provision of ORS 646A.405.
 26 (rrr) Violates ORS 646A.092.
 27 (sss) Violates a provision of ORS 646.644.
 28 (ttt) Violates a provision of ORS 646A.295.
 29 (uuu) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
 30 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
 31 do so or unless the person is an active member of the Oregon State Bar.
 32 (vvv) Violates ORS 702.012, 702.029 or 702.054.
 33 (www) Violates ORS 646A.806.
 34 (xxx) Violates ORS 646A.810 (2).
 35 (yyy) Violates ORS 443.376.
 36 (zzz) Violates a provision of ORS 646A.770 to 646A.787.
 37 (aaaa) Violates ORS 815.077.
 38 **(bbbb) Violates section 2 or 3 of this 2025 Act.**
 39 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
 40 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
 41 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
 42 cuting attorney need not prove competition between the parties or actual confusion or misunder-
 43 standing.
 44 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
 45 torney General has first established a rule in accordance with the provisions of ORS chapter 183

1 declaring the conduct to be unfair or deceptive in trade or commerce.

2 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
3 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
4 ney, relief is limited to an injunction, and the prevailing party may be awarded reasonable attorney
5 fees.

6 **SECTION 9. The section captions used in this 2025 Act are provided only for the con-**
7 **venience of the reader and do not become part of the statutory law of this state or express**
8 **any legislative intent in the enactment of this 2025 Act.**

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