**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING CONSUMER PROTECTION LAWS; ESTABLISHING DUTIES OF COVERED OPERATORS; ESTABLISHING PENALTIES; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Limiting Internet Network Exploitation Impacting Non-adults Through Harmful Engagement by Social Addictive Negative Designs Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Actual knowledge" means all information and inferences known to a covered operator relating to the age of a user, including but not limited to, self-identified age and any age the covered operator has attributed to or associated with the user, for any purpose, including but not limited to advertising, marketing, or product development purposes. If a covered operator's classification of a user for the purpose of marketing, advertising, or product development is inconsistent with the user's self-identified age for the purpose of having actual knowledge, a covered operator shall disregard self-identified age for the purpose of having actual knowledge.

(2) "Addictive feed" means:

(a) except as otherwise provided in subsection (b), any feature, interface, surface, or content display mechanism, regardless of the name or label applied to it by the operator, that automatically presents, loads, or sequences content to a user and that incorporates one or more of the following:

(i) algorithmic recommendations, including but not limited to, any process, automated system, or computational mechanism that recommends, ranks, prioritizes, filters, sequences, or selects content for presentation to a user , including content originating from accounts, sources, or creators the user has chosen to follow or subscribe to, based, in whole or in part, on data collected from or about the user, whether linked to an account, a device, a session, or an inferred identity; inferences generated about the user's interests, characteristics, behavior, or predicted responses; or the user's past interactions with content, the platform, or other users;

(ii) infinite scroll, including, but not limited to, any design feature that automatically loads, renders, or presents content beyond content the user explicitly and specifically requested, searched for, or selected in the same session, including but not limited to infinite scroll, endless scroll, or any feature that eliminates or obscures a natural stopping point between discrete content items or pages;

(iii) auto-playing content, including, but not limited to, any design feature in which audio or video media begins playing without a discrete, affirmative user action to initiate playback of that specific media item, including auto-advance from one media item to the next, auto-looping of a single media item, and auto-initiation of playback upon page load or scroll-into-view; and

(iv) quantification of engagement, including, but not limited to, providing a visible count of how many likes, followers, comments, clicks, views, or reactions a user or a user-generated item has received.

(b) a feature, interface, surface, or content display mechanism is not an addictive feed if the content is presented to the user based solely on one or more of the following conditions:

(i) the recommendation, prioritization, or selection of content is determined by user-selected preferences, privacy or accessibility settings, or technical characteristics of the user's device, including user survey responses or user ratings data;

(ii) the user has expressly and unambiguously requested:

(A) a specific item of content;

(B) content from a specific author, creator, source, or group that the user has subscribed to or followed, where the presentation of that content is not further ranked, filtered, or sequenced by a process described in subsection (a)(i); or

(C) results responsive to a specific search query entered by the user in the same session;

(iii) the content is a part of a direct and private communication;

(iv) The content is the next item in a predetermined, fixed sequence established by the original author, creator, or source, and that sequence has not been altered by a process described in subsection (a)(i); or

(v) The recommendation, prioritization, or selection of content is necessary to comply with this section or any rules promulgated under this section.

(3) "Addictive internet-based service or application" means an internet website, online service, online application, game, or mobile application that offers or provides a user an addictive feed

(4) "Covered minor" means a resident of this state who is a user of an addictive internet-based service or application that a covered operator has actual knowledge is a minor.

(5) "Covered operator" means a person that operates or provides an addictive internet-based service or application.

(6) "Minor" means any person under 18 years of age.

(7) "Parent" means a parent or legal guardian of a minor.

(8) "Person" means any individual, partnership, association, corporation, or other entity.

(9) "User" means an individual who uses an addictive internet-based service or application and is not acting as a covered operator, or an agent or affiliate of a covered operator.

(10) "Verifiable parental consent" means:

(a) verifiable parental consent as defined in the Children's Online Privacy Protection Act, 15 U.S.C. § 6501(9), and as implemented through rules promulgated by the Federal Trade Commission at 16 C.F.R. Part 312, as amended; and

(b) any rules promulgated by the attorney general to identify methods of obtaining verifiable parental consent pursuant to [section 4].

NEW SECTION. **Section 3. Duties of Covered Operators.** (1) Subject to subsections (3)(2) and (3)(3), a covered operator may provide an addictive feed to a user if one of the following applies:

(a) The covered operator has actual knowledge that the user is not a minor; or

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(b) The covered operator has obtained verifiable parental consent to provide an addictive feed to a covered minor under 16 years of age, or where the covered minor is 16 years of age or over, the consent of the covered minor; or

(c) The covered operator has no actual knowledge of the age of the user.

(2) A covered operator shall not use any system design feature to significantly increase, sustain or extend any covered minor's use of such online service, product or feature.

(3) A covered operator shall not send a notification or push alert concerning an addictive feed to a covered minor between 8 p.m. and 8 a.m. The covered operator shall not send a notification or push alert concerning an addictive feed to a covered minor on a weekday between 8 a.m. and 4 p.m. during the year except for the months of June, July and August.

(4) A covered operator is not required to collect information to determine the age of a user under subsection (1)(a).

(5) If a covered operator collects information to determine the age of a user under subsection (1)(a), the covered operator shall not use that information for any purpose other than to determine the age of the user. A covered operator shall delete any information collected to determine the age of the user under subsection (1)(a) immediately after an attempt to determine the age of the user, except if necessary to comply with applicable laws.

(6) A covered operator shall not use information that is collected to obtain verifiable parental consent under subsection (1)(b for any purpose other than to obtain verifiable parental consent. A covered operator shall delete information collected to obtain parental consent under subsection (1)(b) immediately after an attempt to obtain parental consent, except if necessary to comply with any applicable laws.

(7) This section does not require a covered operator to give a parent who grants verifiable parental consent under subsection (1)(b) any additional or special access to or control over the data or accounts of the parent's child.

(8) A covered operator shall not withhold, degrade, lower the quality, or increase the price of a product, service, or feature, other than as necessary to comply with this part or rules promulgated in accordance with this section, for a user because of an individual availing themselves of the rights provided by this part or due to any restrictions provided by this part.

(9) Verifiable parental consent under subsection 1(b) does not waive, release, limit, or serve as a defense to a claim that a parent of a minor or a user who is a minor or was a minor at the time of using the addictive internet-based service or application, might have against a covered operator regarding harm to the physical health, mental health or well-being of the user.

NEW SECTION. **Section 4. Enforcement--penalty--rulemaking.** (1) The attorney general has exclusive authority and may use the duties and powers provided by Title 30, chapter 14, parts 1 and 2, to enforce violations pursuant to this part.

(2) The attorney general shall post on the attorney general's website:

(a) information relating to:

(i) the responsibilities of a covered operator pursuant to this part; and

(ii) a user's rights pursuant to this part; and

(b) an online mechanism through which a user may submit a complaint regarding a covered operator or an addictive internet-based service or application to the attorney general.

(3) If the attorney general has reasonable cause to believe that a person has engaged in or is engaging in a violation of this part, the attorney general may issue a civil investigative demand pursuant to 30-14-113.

(4) The attorney general shall promulgate rules to implement this part, including, but not limited to, rules to identify methods of obtaining verifiable parental consent pursuant to [section 3].

(5) Following a civil investigative demand, if a covered operator is found in violation of this part, the attorney general may bring civil action seeking one or more of the following:

(a) a civil fine of not more than $5,000.00 per violation. Each instance of conduct prohibited under this section constitutes a separate violation. Where prohibited conduct affects more than one covered minor, each covered minor affected constitutes a separate violation;

(b) actual damages;

(c) injunctive or declaratory relief;

(d) destruction of information obtained in violation of this part; and

(e) any other relief that the court considers appropriate.

(6) The attorney general shall deposit a civil penalty collected under this section to a special revenue account to the credit of the department pursuant to 30-14-143.

NEW SECTION. **Section 5. Statute of limitations.** Actions brought by the department to enforce this part are subject to the statute of limitations pursuant to 27-2-231.

NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 5] are intended to be codified as a new part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1 through 5].

NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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