



June 2, 2025

House Judiciary Committee
1 Capital Square
Columbus OH 43215

Re: HB 226 – "Require application stores to offer parental control options." (Oppose)

Dear Chair Jim Thomas and Members of the House Judiciary Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB 226. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.¹ Proposed regulations on the interstate provision of digital services therefore can have a significant impact on CCIA members.

CCIA firmly believes that children are entitled to greater security and privacy online. Our members have designed and developed settings and parental tools to individually tailor younger users' online use to their developmental needs. For example, various services allow parents to set time limits, provide enhanced privacy protections by default for known child users, and other tools allow parents to block specific sites entirely.² This is also why CCIA supports implementing digital citizenship curricula in schools, to not only educate children on proper social media use but also help teach parents how they can use existing mechanisms and tools to protect their children as they see fit.³ However, this bill raises the following concerns:

Federal courts in Ohio and elsewhere have recently held that laws requiring age verification and parental consent violate the First and Fourteenth Amendments.

Recent state legislation requiring age verification or parental consent for social media sites has faced numerous constitutional challenges. Federal courts in Ohio⁴ and Arkansas⁵ have held that such laws violate both the First Amendment's guarantee of free speech and the Fourteenth Amendment's prohibition on vague laws.⁶ The Ohio law was found unconstitutionally vague in part because it determined which services were regulated based on whether they are "reasonably anticipated to be accessed by children,"⁷ just as HB 226 does.

¹ For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² Competitive Enterprise Institute, *Children Online Safety Tools*, <https://cei.org/children-online-safety-tools/> (last updated Feb. 19, 2025).

³ Jordan Rodell, *Why Implementing Education is a Logical Starting Point for Children's Safety Online*, Disruptive Competition Project (Feb. 7, 2023), <https://project-disco.org/privacy/020723-why-implementing-education-is-a-logical-starting-point-for-childrens-safety-online/>.

⁴ *NetChoice v. Yost*, No. 2:24-cv-00047, 2025 WL 1137485 (S.D. Ohio Apr. 16, 2025).

⁵ *NetChoice v. Griffin*, No. 23-cv-05105, 2025 WL 978607 (W.D. Ark. Mar. 31, 2025).

⁶ *Griffin* at *20.

⁷ *Yost* at *3.



Federal courts have also invalidated their states' age verification and related parental consent laws for being "content-based restriction[s] on speech that [are] not narrowly tailored to serve a compelling government interest."⁸ The Ohio court held that "governments lack the power to prevent children from hearing or saying anything without their parents' prior consent,"⁹ and that making "minors' ability to contribute or access a wide array of protected First Amendment activity on any number of diverse topics... contingent on securing parental consent" is "an impermissible curtailment of their First Amendment rights."¹⁰

Numerous other federal judges have placed similar laws on hold until challenges can be fully reviewed, including in California,¹¹ Florida,¹² Mississippi,¹³ Texas,¹⁴ and Utah.¹⁵ In California, the Ninth Circuit recently issued a temporary stay against a state law with many similar provisions¹⁶ after the District Court found the law to be "content-based on its face"¹⁷ and to "likely fail strict scrutiny."¹⁸ Chief Judge Walker in the Northern District of Florida recently summarized the consensus view, stating that "like other district courts around the country, this Court simply recognizes that the First Amendment places stringent requirements on the State to avoid substantially burdening speech unless the State can show that doing so is necessary to achieve its significant interests."¹⁹

Businesses operating online depend on clear regulatory certainty across jurisdictions nationwide.

Ambiguous and inconsistent state and local regulations undermine business certainty, creating significant confusion surrounding compliance. This type of regulatory patchwork may deter new entrants, harming competition, innovation, and consumers. Devices sold into a national market are not and cannot be designed for functionality to trigger by the mere fact that they have moved within a state's borders.

The bill requires that "upon the initial activation of the device," a covered manufacturer shall "take commercially reasonable and technically feasible steps to determine or estimate the age of the primary user of the device." Among other things, this raises questions surrounding how to account for devices purchased online from an out-of-state location or on the secondary market. While it is possible to determine whether a device is activated in the state based on point of sale, it is unclear how the bill applies to devices purchased outside of Ohio.

Furthermore, vague standards like "commercially reasonable and technically feasible steps" could also invite uncertainty and costly litigation over what is deemed "reasonable." The real-time data access requirement would undermine privacy and make children less safe, as

⁸ *Griffin* at *14; see also *Yost* at *20.

⁹ *Yost* at *20 (internal quotation marks omitted).

¹⁰ *Id.* at *15 (internal quotation marks omitted).

¹¹ See, e.g., *NetChoice v. Bonta*, No. 24-cv-07885, 2025 WL 28610 (N.D. Cal. Jan. 2, 2025); *NetChoice v. Bonta*, No. 22-cv-08861, 2024 WL 5264045 (N.D. Cal. Dec. 31, 2024).

¹² See, e.g., *CCIA v. Uthmeier*, No. 24-cv-438, 2025 WL 1570007 (N.D. Fla. June 3, 2025).

¹³ See, e.g., *NetChoice v. Fitch*, No. 24-cv-00170, 2024 WL 3276409 (S.D. Miss. July 1, 2024).

¹⁴ See, e.g., *CCIA v. Paxton*, 747 F. Supp. 3d 1011 (W.D. Tex. 2024).

¹⁵ See, e.g., *NetChoice v. Reyes*, No. 23-cv-00911, 2024 WL 4135626 (D. Utah Sept. 10, 2024).

¹⁶ *NetChoice v. Bonta*, No. 24-cv-07885 (9th Cir. Jan. 28, 2025) (order granting motion for injunctive relief).

¹⁷ *NetChoice v. Bonta*, No. 22-cv-08861, 2025 WL 807961, at *6 (N.D. Cal. Mar. 13, 2025).

¹⁸ *Id.* at *14.

¹⁹ *Uthmeier* at *1.

developers would have access to sensitive personal information identifying an app store's users, including parents of their underage customers.²⁰

Currently available age assessment tools estimate users' ages imperfectly and raise significant privacy concerns.

Every approach to age determination presents trade-offs between accuracy and privacy²¹—in addition to significant costs, especially for startups²²—and there is no one-size-fits-all approach. Different services consider various factors, including but not limited to their user base, the service offered, risk calculation, privacy expectations, and economic feasibility. A recent Digital Trust & Safety Partnership (DTSP) report, *Age Assurance: Guiding Principles and Best Practices*, contains guiding principles for age assurance and discusses how digital services have used such principles to develop best practices.²³

The National Institute of Standards and Technology (NIST) recently published a report evaluating six software-based age estimation and age verification tools that estimate a person's age based on the physical characteristics evident in a photo of their face.²⁴ The report notes that facial age estimation accuracy is strongly influenced by algorithm, sex, image quality, region-of-birth, age itself, and interactions between those factors, with false positive rates varying across demographics, generally being higher in women compared to men. CCIA encourages lawmakers to consider the current technological limitations in providing reliably accurate age estimation tools across all demographic groups.

A government-mandated requirement to verify all Ohioans' ages would conflict with data minimization principles ingrained in standard federal and international privacy and data protection compliance practices.²⁵ Determining a user's age and verifying parental consent inherently requires collecting additional sensitive data from those users, and any document capable of verifying a user's age will likely contain sensitive information. Such excessive monitoring has been shown to negatively affect young people's mental health and development.²⁶

²⁰ Cf. Josh Withrow & Shoshana Weissmann, *No, conscripting the app stores doesn't solve the problems with age verification*, R St. Inst. (Jan. 29, 2025),

<https://www.rstreet.org/commentary/no-conscripting-the-app-stores-doesnt-solve-the-problems-with-age-verification/>.

²¹ Kate Ruane, *CDT Files Brief in Netchoice v. Bonta Highlighting Age Verification Technology Risks* (Feb. 10, 2025),

<https://cdt.org/insights/cdt-files-brief-in-netchoice-v-bonta-highlighting-age-verification-technology-risks/>.

²² Engine, *More than just a number: How determining user age impacts startups* (Feb. 2024),

<https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/65d51f0b0d4f007b71fe2ba6/1708465932202/Engine+Report+-+More+Than+Just+A+Number.pdf>.

²³ *Age Assurance: Guiding Principles and Best Practices*, Digital Trust & Safety Partnership (Sept. 2023),

https://dtspartnership.org/wp-content/uploads/2023/09/DTSP_Age-Assurance-Best-Practices.pdf.

²⁴ Kayee Hanaoka et al., *Face Analysis Technology Evaluation: Age Estimation and Verification (NIST IR 8525)*, National Institute of Standards & Technology (May 30, 2024), <https://doi.org/10.6028/NIST.IR.8525>.

²⁵ See, e.g., *Fair Information Practice Principles (FIPPs)*, Fed. Privacy Council, <https://www.fpc.gov/resources/fipps/>; see also *Principle (c): Data Minimisation*, U.K. Info. Comm'r Off.,

<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/data-protection-principles/a-guide-to-the-data-protection-principles/data-minimisation/>.

²⁶ See, e.g., Hannah Quay-de la Valle, *The Chilling Effect of Student Monitoring: Disproportionate Impacts and Mental Health Risks*, Ctr. for Democracy & Tech. (May 5, 2022),

<https://cdt.org/insights/the-chilling-effect-of-student-monitoring-disproportionate-impacts-and-mental-health-risks/> (finding that "Monitoring programs, if not carefully implemented, can stifle growth and leave students vulnerable to the chilling effect, placing their mental health at risk").



HB 226 may result in denying services to all users under 18, restricting their access to information and community support.

The lack of narrowly tailored definitions could incentivize businesses to simply prohibit minors from using digital services rather than face potential legal action and hefty fines for non-compliance. As noted above, the First Amendment, including the right to access information, is applicable to teens.²⁷ Moreover, requiring businesses to deny access to social networking sites or other online resources may also unintentionally restrict minors’ ability to access and connect with like-minded individuals and communities. For example, children of certain minority groups may not live in an area where they can easily connect with others that represent and relate to their own unique experiences, so an online central meeting place where kids can share their experiences and find support can have positive impacts.²⁸

The connected nature of social media has led some to allege that online services may be negatively impacting teenagers’ mental health. However, researchers explain that this theory is not well supported by existing evidence and repeats a ‘moral panic’ argument frequently associated with new technologies and modes of communication. Instead, social media effects are nuanced,²⁹ individualized, reciprocal over time, and gender-specific. A study conducted by researchers from several leading universities found no evidence that associations between adolescents’ digital technology engagement and mental health problems have increased.³⁰ Particularly, the study shows that depression has virtually no causal relation to TV or social media. Indeed, as the above Ohio ruling noted, “nearly all of the research showing any harmful effects is based on correlation, not evidence of causation.”³¹

As explained above, CCIA believes that an alternative to solving these complex issues is to work with businesses to continue their ongoing private efforts to implement mechanisms such as daily time limits or child-safe searching so that parents can have control over their own child’s social media use.

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We appreciate the Committee’s consideration of these comments and stand ready to provide additional information as the Legislature considers proposals related to technology policy.

Sincerely,

Megan Stokes
State Policy Director
Computer & Communications Industry Association

²⁷ See, e.g., *Reno v. ACLU*, 521 U.S. 844, 874-75 (1997); *Yost* at *15.

²⁸ *The Importance of Belonging: Developmental Context of Adolescence*, Boston Children’s Hospital Digital Wellness Lab (Oct. 2024), <https://digitalwellnesslab.org/research-briefs/young-peoples-sense-of-belonging-online/>.

²⁹ Amy Orben et al., *Social Media’s Enduring Effect on Adolescent Life Satisfaction*, PNAS (May 6, 2019), <https://www.pnas.org/doi/10.1073/pnas.1902058116>.

³⁰ Amy Orben et al., *There Is No Evidence That Associations Between Adolescents’ Digital Technology Engagement and Mental Health Problems Have Increased*, Sage J. (May 3, 2021), <https://journals.sagepub.com/doi/10.1177/2167702621994549>.

³¹ *NetChoice v. Yost*, No. 2:24-cv-00047, slip op. at 43 (internal quotation marks omitted).