



June 26, 2025

North Carolina General Assembly
Attn: House Appropriations Committee
16 West Jones Street
Raleigh, NC 27601

Re: H 860 – "Social Media Control in Information Technology Act." (Oppose)

Dear Chairs Blackwell, Brisson, Paré and Members of the House Appropriations Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose H 860. 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 While CCIA shares the goal of increasing online safety and privacy, this bill presents the following concerns.

H 860 places severe restrictions on businesses' ability to improve their services without significantly improving user privacy.

H 860 requires that covered platforms "establish comprehensive and effective controls to ensure that a minor's personal information is not used in any algorithmic recommendation system." An "algorithmic recommendation system," in turn, is defined to include not only cases where computational techniques replace human decision making, but also where they "facilitate human decision making." These definitions could extend to a broad array of routine activities that do not jeopardize minors' sensitive information. For instance, covered entities might be prevented from designing a system to manage technical support requests, since these necessarily would be sent to support staff according to some computerized protocol and thus constitute an "algorithmic recommendation system" (note that the definition of

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/>.

“algorithmic recommendation system” applies where information is displayed to “any individual,” not just the covered entity’s users).

The bill’s definition of “personal information” is also overly broad, as it fails to include the exemptions for publicly available information and de-identified information that are standard in other jurisdictions.⁴ Collecting this information does not significantly impact user privacy, and undermines businesses’ ability to improve their products and services. For instance, these definitions might also prevent companies from designing algorithms to flag and remove harmful content that violates their terms of service,⁵ and might stop them from using consumer data to fix malfunctioning website features.

These problems can be avoided without jeopardizing minors’ privacy. To help achieve this, CCIA recommends the following:

1. In section 75-70(b)(2), limit the definition of an “algorithmic recommendation system” to cases where computational techniques *replace*, rather than “substantially facilitate,” human decision making, and change “an individual” to “a platform user” (as defined in section 75-70(b)(10)).
2. Explicitly exempt first-party data, de-identified data, and publicly available information from the bill’s restrictions on the use of personal information.
3. Limit section 75-71(b) to restrictions on the use of minors’ *sensitive* personal information, rather than personal information generally.

The bill creates ambiguous obligations for covered businesses.

Section 75-71(d) correctly provides that “The operator of a social media platform that has made an estimation of a user’s age based upon the user’s self-attestation is not liable if the user was a minor who falsely attested to not being a minor.” However, the previous sentence undercuts this exemption, stating that “The operator of a social media platform may be held liable... if the operator of the social media platform knew or had reason to know that the user was a minor.” If covered businesses can be held liable in cases where they merely “had reason to know” that a user is a minor, they may be forced to implement the very age verification systems this exemption seems designed to avoid requiring. To fix this ambiguity, CCIA therefore recommends removing the phrase “or had reason to know” in the provision above.

The obligations in section 75-72(c) are overly vague and should be removed. Terms like “manipulative design techniques” are not defined elsewhere in the bill, and it is unclear how, if at all, this restriction differs from the Federal Trade Commission Act’s prohibition on unfair and deceptive trade practices.⁶ Likewise, it is not feasible to objectively determine every way in

⁴ Compare § 75-70(9) with, e.g., Connecticut Data Privacy Act, Conn. Gen. Stat. § 42-515(26) (2023) and Texas Data Privacy and Security Act, Tex. Bus. & Com. Code Ann. § 541.001(19) (2023) (each stating that personal data “does not include de-identified data or publicly available information”).

⁵ Although section 75-71(c)(3) bars liability for actions “voluntarily taken in good faith to restrict access to or availability of material as described in section 230(c)(2)(A) of the Communications Act of 1934,” this does not solve the above problem, as covered entities may wish to remove harmful content that violates their terms of service even if it does not necessarily fall under section 230(c)(2)(A). The First Amendment of the U.S. Constitution and 47 U.S.C. § 230 grant digital services this editorial discretion.

⁶ See 15 U.S.C. § 45(a)(1) (2012).

which a covered entity might “negatively affect [users’] well-being,” particularly given that terms like “addiction” lack rigorous scientific definition (see below).

Similarly, “protect[ion] from algorithmic recommendation systems” in general risks undermining, rather than enhancing, businesses’ ability to support and assist their users, as noted above. Furthermore, the Supreme Court recently ruled that limitations on a company’s ability to choose how to order content in a feed violate the First Amendment, holding that “The government may not, in supposed pursuit of better expressive balance, alter a private speaker’s own editorial choices about the mix of speech it wants to convey.”⁷

Terms such as “addiction” in this online context lack adequate scientific foundation.

Humans engage in various compulsive and repetitive behaviors — some of which may negatively impact physical and/or mental health. These could range from binge eating unhealthy foods to exercising excessively to watching favorite shows for hours on end. However, these behaviors do not necessarily amount to “addictions”. The most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders: Fifth Edition Text Revision (DSM-5-TR)* declined to include definitions for “Internet gaming disorder,” “Internet addiction,” “excessive use of the Internet,” or “excessive use of social media,” noting that “[g]ambling disorder is currently the only non-substance-related disorder included in the *DSM-5-TR* chapter ‘Substance-Related and Addictive Disorders.’”⁸

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,⁹ individualized, reciprocal over time, and gender-specific. A study conducted by researchers from several leading universities found that there is no evidence that associations between adolescents’ digital technology engagement and mental health problems have increased.¹⁰ Particularly, the study shows that depression has virtually no causal relation to TV or social media.

The bill also gives the Division of Health Service Regulation authority “to specify requirements,” “including specific language and disclosures that may include a warning on the harmful effects of manipulative algorithms.” Mandatory warning labels raise First Amendment concerns and have been ruled “compelled speech,”¹¹ and many federal courts have ruled

⁷ *Moody v. NetChoice, LLC*, 144 S. Ct. 2383, 2403 (2024).

⁸ Am. Psychiatric Ass’n, *Diagnostic and Statistical Manual of Mental Disorders: Fifth Edition Text Revision* (2022).

⁹ 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>.

¹⁰ Amy Orben, et al., *There Is No Evidence That Associations Between Adolescents’ Digital Technology Engagement and Mental Health Problems Have Increased*, Sage Journals (May 3, 2021), <https://journals.sagepub.com/doi/10.1177/2167702621994549>.

¹¹ Aaron Mackey & Jason Kelley, *The Surgeon General’s Fear-Mongering, Unconstitutional Effort to Label Social Media*, EFF Deeplinks Blog (June 17, 2024), <https://www.eff.org/deeplinks/2024/06/no-online-speech-should-not-have-warning-labels>.



against state-imposed content regulations on digital services.¹² Courts have permitted certain mandated warning labels, but only in cases when the science is absolute and incontrovertible, such as cigarette warnings.¹³

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.

The private right of action and other enforcement mechanisms under this bill would result in the proliferation of frivolous lawsuits and questionable claims.

By creating a new private right of action, this measure allows plaintiffs to advance frivolous claims with little evidence of actual injury. Such lawsuits also prove extremely costly and time-intensive, with the costs being passed on to individual North Carolina consumers. Such a measure would disproportionately impact smaller businesses and startups across the state.

This is especially concerning due to the range of potential enforcement under this vaguely-drafted bill, including the AG “monitor[ing]” for compliance, leading to likely jawboning that stifles free speech; user complaints that can be brought by the AG for the mere “reason to believe that the interest” of North Carolina residents “has been or is threatened due to noncompliance”; private rights of action for “any compensatory damages” and punitive damages, along with injunctive relief, declaratory relief, and fees and costs.

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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,

Tom Mann
State Policy Manager, South
Computer & Communications Industry Association

¹² Mike Masnick, *California Politicians Embarrass Themselves By Calling For 'Warning Labels' On Social Media*, Techdirt (Sept. 12, 2024), <https://www.techdirt.com/2024/09/12/california-politicians-embarrass-themselves-by-calling-for-warning-labels-on-social-media/>.

¹³ Clay Calvert, *A Warning Against Warning Labels on Social Media Platforms*, AEIdeas (Jan. 28, 2025), <https://www.aei.org/technology-and-innovation/a-warning-against-warning-labels-on-social-media-platforms/>.