

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 5069

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2023

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 5069.

As amended and reported, this bill prohibits the owner or operator of a social media platform from using any practice, design, feature, or affordance that would cause child users to become addicted to the platform. Under the bill, the owner or operator of the social media platform would be liable for a civil penalty not to exceed \$250,000 for each violation.

However, the platform would not be deemed to violate the provisions of the bill if the owner or operator of the platform hires an independent third party to conduct an annual audit to determine whether any of its practices, designs, features, or affordances would cause, have the potential to cause, or contribute to the addiction of child users to the platform, and the owner or operator of the platform demonstrates that the platform does not use a practice, design, feature, or affordance that causes, or is likely to cause, the addiction of child users to the platform. If an audit reveals that a practice, design, feature, or affordance has the potential to cause or contributes to child user addiction, the owner or operator of the social media platform would also be required to correct the practice, design, feature, or affordance within 30 calendar days of the completion of the audit. The bill also requires that a social media platform demonstrate that it does not use a practice, design, feature, or affordance that causes, or is likely to cause, the addiction of child users to the platform.

Additionally, certain social media platforms would not be subject to the requirements of the bill. These social media platforms would include any platform that is controlled by a business entity that generated less than \$100 million in gross revenue during the preceding calendar year, or any platform whose primary function is to enable users to play video games.

The bill also clarifies that the owner or operator of a social media platform would not be subject to liability under this bill for: (1) any content generated, uploaded, or shared by users of the platform; (2)

any content that is created by third-party entities and passively displayed by the platform; (3) any information or content for which the platform was not responsible for creating and developing; and (4) any conduct involving child users that would otherwise be protected under certain federal law, the First Amendment of the United States Constitution, or Article I, paragraph 6 of the State Constitution.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove the option for a social media platform to conduct an internal audit to be deemed not to violate the provisions of the bill, requiring instead that the social media platform hire an independent third party to conduct the audit;

(2) clarify that a social media platform is not deemed to violate the bill's provisions if the owner or operator of the platform demonstrates that the platform does not use a practice, design, feature, or affordance that causes, or is likely to cause, the addiction of child users to the platform;

(3) clarify that certain provisions of the bill apply to the owner or operator of the social media platform rather than the platform itself; and

(4) make grammatical changes to the bill.