AMENDMENT NO.________       Calendar No._____

Purpose: In the nature of a substitute.


S. 1409

To protect the safety of children on the internet.

Referred to the Committee on ______________ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____________

Viz:

1 Strike all after the enacting clause and insert the fol-
   lowing:

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the

5 “Kids Online Safety Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for

7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Duty of care.
Sec. 4. Safeguards for minors.
Sec. 5. Disclosure.
Sec. 6. Transparency.
Sec. 7. Independent research on social media and minors.
Sec. 8. Market research.
Sec. 9. Age verification study and report.
Sec. 10. Guidance.
Sec. 11. Enforcement.
Sec. 12. Kids online safety council.
1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) CHILD.—The term “child” means an individual who is under the age of 13.

4 (2) COMPULSIVE USAGE.—The term “compulsive usage” means any response stimulated by external factors that causes an individual to engage in repetitive behavior reasonably likely to cause psychological distress, loss of control, anxiety, or depression.

5 (3) COVERED PLATFORM.—

6 (A) IN GENERAL.—The term “covered platform” means an online platform, online video game, messaging application, or video streaming service that connects to the internet and that is used, or is reasonably likely to be used, by a minor.

7 (B) EXCEPTIONS.—The term “covered platform” does not include—

8 (i) an entity acting in its capacity as a provider of—

9 (I) a common carrier service subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.) and all
Acts amendatory thereof and supplemental thereto;

(II) a broadband internet access service (as such term is defined for purposes of section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation);

(III) an email service;

(IV) a teleconferencing or video conferencing service that allows reception and transmission of audio and video signals for real-time communication, provided that—

(aa) is not an online platform, including a social media service or social network; and

(bb) the real-time communication is initiated by using a unique link or identifier to facilitate access; or

(V) a wireless messaging service that is not a component of, or linked to, an online platform, and where the predominant or exclusive function of the service is direct messaging con-
sisting of text, photos, or videos that
are sent between devices by electronic
means where messages are shared
only between the sender and the re-
cipient, are only visible to the sender
and the recipient, and are not posted
publicly;

(ii) an organization not organized to
carry on business for its own profit or that
of its members;

(iii) any public or private preschool,
elementary, or secondary school, or any in-
stitution of vocational, professional, or
higher education;

(iv) a library (as defined in section
213(1) of the Library Services and Tech-
nology Act (20 U.S.C. 9122(1)));

(v) a news website or app where—

(I) the inclusion of video content
on the website or app is related to the
website or app’s own gathering, re-
porting, or publishing of news content;
and

(II) the website or app is not
otherwise an online platform; or
(vi) a product or service that primarily functions as business-to-business software.

(4) GEOLOCATION.—The term "geolocation" means information sufficient to identify street name and name of a city or town.

(5) INDIVIDUAL-SPECIFIC ADVERTISING TO MINORS.—

(A) IN GENERAL.—The term "individual-specific advertising to minors" means advertising or any other effort to market a product or service that is directed to a specific minor or a device that is linked or reasonably linkable to a minor—

(i) based on—

(I) the personal data of—

(aa) the minor; or

(bb) a group of minors who are similar in gender, age, income level, race, or ethnicity to the specific individual to whom the product or service is marketed;

(II) psychological profiling of a minor or group of minors; or
(III) a unique identifier of the device; or

(ii) as a result of use by the minor, access by any device of the minor, or use by a group of minors who are similar to the specific minor, of more than a single—

(I) website;

(II) online service;

(III) online application;

(IV) mobile application; or

(V) connected device

(B) EXCLUSIONS.—The term "individual-specific advertising to minors" shall not include—

(i) advertising or marketing to an individual or the device of an individual in response to the individual’s specific request for information or feedback, such as a minor’s current search query;

(ii) contextual advertising, such as when an advertisement is displayed based on the content of the covered platform on which the advertisement appears and does not vary based on personal information related to the viewer;
(iii) processing personal information solely for measuring or reporting advertising or content performance, reach, or frequency, including independent measurement;

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to prohibit a covered platform with actual knowledge or knowledge fairly implied on the basis of objective circumstances that an individual is under the age of 17 from delivering advertising or marketing that is age-appropriate for the individual involved and intended for a child or teen audience (as applicable), so long as the covered platform does not use any personal data other than whether the user is under the age of 17 to deliver such advertising or marketing.

(6) KNOW OR KNOWS.—The term "know" or "knows" means to have actual knowledge or knowledge fairly implied on the basis of objective circumstances.

(7) MENTAL HEALTH DISORDER.—The term "mental health disorder" has the meaning given the term "mental disorder" in the Diagnostic and Sta-
tistical Manual of Mental Health Disorders, 5th Edition (or the most current successor edition).

(8) MINOR.—The term “minor” means an individual who is under the age of 17.

(9) ONLINE PLATFORM.—The term “online platform” means any public-facing website, online service, online application, or mobile application that predominantly provides a community forum for user generated content, such as sharing videos, images, games, audio files, or other content, including a social media service, social network, or virtual reality environment.

(10) ONLINE VIDEO GAME.—The term “online video game” means a video game, including an educational video game, that connects to the internet and that—

(A) allows a user to—

(i) create and upload content;

(ii) engage in microtransactions within the game; or

(iii) communicate with other users; or

(B) incorporates minor-specific advertising.

(11) PARENT.—The term “parent” includes—

(A) a natural parent;

(B) a legal guardian; or
(C) an individual with legal custody over a minor.

(12) PERSONAL DATA.—The term “personal data” means information that identifies or is linked or reasonably linkable to a particular minor, including a consumer device identifier that is linked or reasonably linkable to a minor.

(13) PERSONALIZED RECOMMENDATION SYSTEM.—The term “personalized recommendation system” means a fully or partially automated system used to suggest, promote, or rank content, including other users or posts, based on the personal data of users.

(14) SEXUAL EXPLOITATION AND ABUSE.—The term “sexual exploitation and abuse” means any of the following:

(A) Coercion and enticement, as described in section 2422 of title 18, United States Code.

(B) Child sexual abuse material, as described in sections 2251, 2252, 2252A, and 2260 of title 18, United States Code.

(C) Trafficking for the production of images, as described in section 2251A of title 18, United States Code.
(D) Sex trafficking of children, as described in section 1591 of title 18, United States Code.

SEC. 3. DUTY OF CARE.

(a) PREVENTION OF HARM TO MINORS.—A covered platform shall take reasonable measures in the design and operation of any product, service, or feature that the covered platform knows is used by minors to prevent and mitigate the following harms to minors:

(1) Consistent with evidence-informed medical information, the following mental health disorders: anxiety, depression, eating disorders, substance use disorders, and suicidal behaviors.

(2) Patterns of use that indicate or encourage addiction-like behaviors.

(3) Physical violence, online bullying, and harassment of the minor.

(4) Sexual exploitation and abuse.

(5) Promotion and marketing of narcotic drugs (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), tobacco products, gambling, or alcohol.

(6) Predatory, unfair, or deceptive marketing practices, or other financial harms.
(b) LIMITATION.—Nothing in subsection (a) shall be construed to require a covered platform to prevent or preclude—

(1) any minor from deliberately and independently searching for, or specifically requesting, content; or

(2) the covered platform or individuals on the platform from providing resources for the prevention or mitigation of the harms described in subsection (a), including evidence-informed information and clinical resources.

SEC. 4. SAFEGUARDS FOR MINORS.

(a) SAFEGUARDS FOR MINORS.—

(1) SAFEGUARDS.—A covered platform shall provide an individual that the covered platform knows is a minor with readily-accessible and easy-to-use safeguards to, as applicable—

(A) limit the ability of other individuals to communicate with the minor;

(B) prevent other users, whether registered or not, from viewing the minor’s personal data collected by or shared on the covered platform, in particular restricting public access to personal data;
(C) limit features that increase, sustain, or extend use of the covered platform by the minor, such as automatic playing of media, rewards for time spent on the platform, notifications, and other features that result in compulsive usage of the covered platform by the minor;

(D) control personalized recommendation systems, including the ability for a minor to have at least 1 of the following options—

(i) opt out of such personalized recommendation systems, while still allowing the display of content based on a chronological format; or

(ii) limit types or categories of recommendations from such systems; and

(E) restrict the sharing of the geolocation of the minor to other users on the platform and provide notice regarding the tracking of the minor’s geolocation.

(2) OPTIONS.—A covered platform shall provide an individual that the covered platform knows is a minor with readily-accessible and easy-to-use options to—
(A) delete the minor's account and delete any personal data collected from, or shared by, the minor on the covered platform; or

(B) limit the amount of time spent by the minor on the covered platform.

(3) Default safeguard settings for minors.—A covered platform shall provide that, in the case of a user that the platform knows is a minor, the default setting for any safeguard described under paragraph (1) shall be the option available on the platform that provides the most protective level of control that is offered by the platform over privacy and safety for that user.

(b) Parental Tools.—

(1) Tools.—A covered platform shall provide readily-accessible and easy-to-use settings for parents to support an individual that the platform knows is a minor with respect to the individual's use of the platform.

(2) Requirements.—The parental tools provided by a covered platform shall include—

(A) the ability to manage a minor's privacy and account settings, including the safeguards and options established under subsection (a), in a manner that allows parents to—
(i) view the privacy and account settings; and

(ii) in the case of a user that the platform knows is a child, change and control the privacy and account settings;

(B) the ability to restrict purchases and financial transactions by the minor, where applicable; and

(C) the ability to view metrics of total time spent on the platform and restrict time spent on the covered platform by the minor.

(3) NOTICE TO MINORS.—A covered platform shall provide clear and conspicuous notice to an individual that the platform knows is a minor when tools described in this subsection are in effect and what settings or controls have been applied.

(4) DEFAULT TOOLS.—A covered platform shall provide that, in the case of a user that the platform knows is a child, the tools described in this subsection shall be enabled by default.

(c) REPORTING MECHANISM.—

(1) REPORTS SUBMITTED BY PARENTS, MINORS, AND SCHOOLS.—A covered platform shall pro-
(A) a readily-accessible and easy-to-use means to submit reports to the covered platform of harms to a minor;

(B) an electronic point of contact specific to matters involving harms to a minor; and

(C) confirmation of the receipt of such a report and a means to track a submitted report.

(2) TIMING.—A covered platform shall establish an internal process to receive and substantively respond to such reports in a reasonable and timely manner, but in no case later than—

(A) 10 days after the receipt of a report, if, for the most recent calendar year, the platform averaged more than 10,000,000 active users on a monthly basis in the United States;

(B) 21 days after the receipt of a report, if, for the most recent calendar year, the platform averaged less than 10,000,000 active users on a monthly basis in the United States; and

(C) notwithstanding subparagraphs (A) and (B), if the report involves an imminent threat to the safety of a minor, as promptly as needed to address the reported threat to safety.
(d) Advertising of Illegal Products.—A covered platform shall not facilitate the advertising of narcotic drugs (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), tobacco products, gambling, or alcohol to an individual that the covered platform knows is a minor.

(e) Application.—

(1) Accessibility.—With respect to safeguards and parental controls described under subsections (a) and (b), a covered platform shall provide—

(A) information and control options in a clear and conspicuous manner that takes into consideration the differing ages, capacities, and developmental needs of the minors most likely to access the covered platform and does not encourage minors or parents to weaken or disable safeguards or parental controls;

(B) readily-accessible and easy-to-use controls to enable or disable safeguards or parental controls, as appropriate; and

(C) information and control options in the same language, form, and manner as the covered platform provides the product or service used by minors and their parents.
(2) DARK PATTERNS PROHIBITION.—It shall be unlawful for any covered platform to design, modify, or manipulate a user interface of a covered platform with the purpose or substantial effect of subverting or impairing user autonomy, decision-making, or choice with respect to safeguards or parental controls required under this section.

(3) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(A) prevent a covered platform from taking reasonable measures to—

(i) block, detect, or prevent the distribution of unlawful, obscene, or other harmful material to minors as described in section 3(a); or

(ii) block or filter spam, prevent criminal activity, or protect the security of a platform or service;

(B) require the disclosure of a minor’s browsing behavior, search history, messages, contact list, or other content or metadata of their communications;

(C) prevent a covered platform from using a personalized recommendation system to dis-
play content to a minor if the system only uses
information on—

(i) the language spoken by the minor;
(ii) the geolocation of the minor; or
(iii) the minor’s age; or

(D) prohibit a covered platform from integrating its products or service with controls
from third-party systems, including operating systems or gaming consoles, to meet the re-
quirements imposed under subsections (a) and (b) relating to safeguards for minors and tools
for parents, provided that—

(i) the controls meet such require-
ments; and
(ii) the minor or parent is provided
sufficient notice of the integration and use
of the controls.

SEC. 5. DISCLOSURE.

(a) NOTICE.—

(1) REGISTRATION OR PURCHASE.—Prior to registration or purchase of a covered platform by an
individual that the platform knows is a minor, the platform shall provide clear, conspicuous, and easy-
to-understand—
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(A) notice of the policies and practices of
the covered platform with respect to personal
data and safeguards for minors;

(B) information about how to access the
safeguards and parental tools required under
section 4; and

(C) notice about whether the covered plat-
form uses or makes available to minors a prod-
uct, service, or feature, including any personal-
ized recommendation system, that poses any
heightened risk of harm to minors.

(2) NOTIFICATION.—

(A) NOTICE AND ACKNOWLEDGMENT.—In
the case of an individual that a covered plat-
form knows is a child, the platform shall addi-
tionally provide information about the parental
tools and safeguards required under section 4
to a parent of the child and obtain verifiable
parental consent (as defined in section 1302(9)
of the Children’s Online Privacy Protection Act
(15 U.S.C. 6501(9))) from the parent prior to
the initial use of the covered platform by the
child.

(B) REASONABLE EFFORT.—A covered
platform shall be deemed to have satisfied the
requirement described in subparagraph (A) if the covered platform is in compliance with the requirements of the Children's Online Privacy Protection Act (15 U.S.C. 6501 et seq.) to use reasonable efforts (taking into consideration available technology) to provide a parent with the information described in subparagraph (A) and to obtain verifiable parental consent as required.

(3) CONSOLIDATED NOTICES.—A covered platform may consolidate the process for providing information under this subsection and obtaining verifiable parental consent or the consent of the minor involved (as applicable) as required under this subsection with its obligations to provide relevant notice and obtain verifiable parental consent under the Children's Online Privacy Protection Act (15 U.S.C. 6501 et seq.).

(4) GUIDANCE.—The Federal Trade Commission may issue guidance to assist covered platforms in complying with the requirements of this section.

(b) PERSONALIZED RECOMMENDATION SYSTEM.—A covered platform that operates a personalized recommendation system shall set out in its terms and condi-
tions, in a clear, conspicuous, and easy-to-understand manner—

(1) an overview of how such personalized recommendation system is used by the covered platform to provide information to users of the platform who are minors, including how such systems use the personal data of minors; and

(2) information about options for minors or their parents to opt out of or control the personalized recommendation system (as applicable).

(c) ADVERTISING AND MARKETING INFORMATION AND LABELS.—

(1) INFORMATION AND LABELS.—A covered platform that facilitates advertising aimed at users that the platform knows are minors shall provide clear, conspicuous, and easy-to-understand information and labels to minors on advertisements regarding—

(A) the name of the product, service, or brand and the subject matter of an advertisement;

(B) if the covered platform engages in individual-specific advertising to minors, why a particular advertisement is directed to a specific minor, including material information about
how the minor's personal data is used to direct
the advertisement to the minor; and

(C) whether particular media displayed to
the minor is an advertisement or marketing ma-
terial, including disclosure of endorsements of
products, services, or brands made for commer-
cial consideration by other users of the plat-
form.

(2) GUIDANCE.—The Federal Trade Commis-
sion may issue guidance to assist covered platforms
in complying with the requirements of this sub-
section, including guidance about the minimum level
of information and labels for the disclosures required
under paragraph (1) .

(d) RESOURCES FOR PARENTS AND MINORS.—A cov-
ered platform shall provide to minors and parents clear,
conspicuous, easy-to-understand, and comprehensive infor-
mation in a prominent location regarding—

(1) its policies and practices with respect to
personal data and safeguards for minors; and

(2) how to access the safeguards and tools re-
quired under section 4.

(e) RESOURCES IN ADDITIONAL LANGUAGES.—A
covered platform shall ensure, to the extent practicable,
that the disclosures required by this section are made
available in the same language, form, and manner as the
covered platform provides any product or service used by
minors and their parents.

4 SEC. 6. TRANSPARENCY.

(a) IN GENERAL.—Subject to subsection (b), not less
frequently than once a year, a covered platform shall issue
a public report describing the reasonably foreseeable risks
of material harms to minors and assessing the prevention
and mitigation measures taken to address such risk based
on an independent, third-party audit conducted through
reasonable inspection of the covered platform.

(b) SCOPE OF APPLICATION.—The requirements of
this section shall apply to a covered platform if—

(1) for the most recent calendar year, the plat-
form averaged more than 10,000,000 active users on
a monthly basis in the United States; and

(2) the platform predominantly provides a com-
community forum for user-generated content and discus-
sion, including sharing videos, images, games, audio
files, discussion in a virtual setting, or other content,
such as acting as a social media platform, virtual re-
ality environment, or a social network service.

(e) CONTENT.—
(1) **TRANSPARENCY.**—The public reports required of a covered platform under this section shall include—

(A) an assessment of the extent to which the platform is likely to be accessed by minors;

(B) a description of the commercial interests of the covered platform in use by minors;

(C) an accounting, based on the data held by the covered platform, of—

   (i) the number of individuals using the covered platform reasonably believed to be minors in the United States; and

   (ii) the median and mean amounts of time spent on the platform by minors in the United States who have accessed the platform during the reporting year on a daily, weekly, and monthly basis;

(D) an accounting of total reports received regarding, and the prevalence (which can be based on scientifically valid sampling methods using the content available to the covered platform in the normal course of business) of content related to, the harms described in section 3(a), disaggregated by category of harm; and
(E) a description of any material breaches of parental tools or assurances regarding minors, representations regarding the use of the personal data of minors, and other matters regarding non-compliance.

(2) Reasonably foreseeable risk of harm to minors.—The public reports required of a covered platform under this section shall include—

(A) an assessment of the reasonably foreseeable risk of harms to minors posed by the covered platform, including identifying any other physical, mental, developmental, or financial harms in addition to those described in section 3(a);

(B) an assessment of how personalized recommendation systems and individual-specific advertising to minors can contribute to harms to minors;

(C) a description of whether and how the covered platform uses system design features that increase, sustain, or extend use of a product or service by a minor, such as automatic playing of media, rewards for time spent, and notifications;
(D) a description of whether, how, and for what purpose the platform collects or processes categories of personal data that may cause reasonably foreseeable risk of harms to minors;

(E) an evaluation of the efficacy of safeguards for minors under section 4, and any issues in delivering such safeguards and the associated parental tools; and

(F) an evaluation of any other relevant matters of public concern over risk of harms to minors.

(3) MITIGATION.—The public reports required of a covered platform under this section shall include—

(A) a description of the safeguards and parental tools available to minors and parents on the covered platform;

(B) a description of interventions by the covered platform when it had or has reason to believe that harms to minors could occur;

(C) a description of the prevention and mitigation measures intended to be taken in response to the known and emerging risks identified in its assessment of system risks, including steps taken to—
(i) prevent harms to minors, including adapting or removing system design features or addressing through parental controls;

(ii) provide the most protective level of control over privacy and safety by default; and

(iii) adapt recommendation systems to mitigate reasonably foreseeable risk of harms to minors, as described in section 3(a);

(D) a description of internal processes for handling reports and automated detection mechanisms for harms to minors, including the rate, timeliness, and effectiveness of responses under the requirement of section 4(c);

(E) the status of implementing prevention and mitigation measures identified in prior assessments; and

(F) a description of the additional measures to be taken by the covered platform to address the circumvention of safeguards for minors and parental tools.
(d) **REASONABLE INSPECTION.**—In conducting an inspection of the systemic risks of harm to minors under this section, an independent, third-party auditor shall—

1. take into consideration the function of personalized recommendation systems;
2. consult parents and youth experts, including youth and families with relevant past or current experience, public health and mental health nonprofit organizations, health and development organizations, and civil society with respect to the prevention of harms to minors;
3. conduct research based on experiences of minors that use the covered platform, including reports under section 4(e) and information provided by law enforcement;
4. take account of research, including research regarding system design features, marketing, or product integrity, industry best practices, or outside research; and
5. consider indicia or inferences of age of users, in addition to any self-declared information about the age of individuals.

(e) **COOPERATION WITH INDEPENDENT, THIRD-PARTY AUDIT.**—To facilitate the report required by subsection (e), a covered platform shall—
(1) provide or otherwise make available to the independent third-party conducting the audit all information and material in its possession, custody, or control that is relevant to the audit;

(2) provide or otherwise make available to the independent third-party conducting the audit access to all network, systems, and assets relevant to the audit; and

(3) disclose all relevant facts to the independent third-party conducting the audit, and not misrepresent in any manner, expressly or by implication, any relevant fact.

(f) PRIVACY SAFEGUARDS.—

(1) IN GENERAL.—In issuing the public reports required under this section, a covered platform shall take steps to safeguard the privacy of its users, including ensuring that data is presented in a de-identified, aggregated format such that it is reasonably impossible for the data to be linked back to any individual user.

(2) RULE OF CONSTRUCTION.—This section shall not be construed to require the disclosure of information that will lead to material vulnerabilities for the privacy of users or the security of a covered
platform's service or create a significant risk of the
violation of Federal or State law.

(3) DEFINITION OF DE-IDENTIFIED.—As used
in this subsection, the term “de-identified” means
data that does not identify and is not linked or rea-
sonably linkable to a device that is linked or reason-
ably linkable to an individual, regardless of whether
the information is aggregated

(g) LOCATION.—The public reports required under
this section should be posted by a covered platform on an
easy to find location on a publicly-available website.

SEC. 7. INDEPENDENT RESEARCH ON SOCIAL MEDIA AND
MINORS.

(a) DEFINITIONS.—In this section:

(1) COMMISSION.—The term “Commission”
means the Federal Trade Commission.

(2) NATIONAL ACADEMY.—The term “National
Academy” means the National Academy of Sciences.

(3) SECRETARY.—The term “Secretary” means
the Secretary of Health and Human Services.

(b) RESEARCH ON SOCIAL MEDIA HARMS.—Not
later than 12 months after the date of enactment of this
Act, the Commission shall seek to enter into a contract
with the National Academy, under which the National
Academy shall conduct no less than 5 scientific, com-
prehensive studies and reports on the risk of harms to mi-
nors by use of social media and other online platforms.

(c) MATTERS TO BE ADDRESSED.—In contracting
with the National Academy, the Commission, in consulta-
tion with the Secretary, shall seek to commission separate
studies and reports, using the Commission’s authority
under section 6(b) of the Federal Trade Commission Act
(15 U.S.C. 46(b)), on the relationship between social
media and other online platforms as defined in this Act
on the following matters:

(1) Anxiety, depression, eating disorders, and
suicidal behaviors.

(2) Substance use disorders and the use of nar-
cotic drugs, tobacco products, gambling, or alcohol
by minors.

(3) Sexual exploitation and abuse.

(4) Addiction-like use of social media and de-
sign factors that lead to unhealthy and harmful
overuse of social media.

(d) ADDITIONAL STUDY.—Not earlier than 4 years
after enactment, the Commission shall seek to enter into
a contract with the National Academy under which the
National Academy shall conduct an additional study and
report covering the matters described in subsection (c) for
the purposes of providing additional information, considering new research, and other matters.

(e) **CONTENT OF REPORTS.**—The comprehensive studies and reports conducted pursuant to this section shall seek to evaluate impacts and advance understanding, knowledge, and remedies regarding the harms to minors posed by social media and other online platforms, and may include recommendations related to public policy.

(f) **ACTIVE STUDIES.**—If the National Academy is engaged in any active studies on the matters described in subsection (c) at the time that it enters into a contract with the Commission to conduct a study under this section, it may base the study to be conducted under this section on the active study, so long as it otherwise incorporates the requirements of this section.

(g) **COLLABORATION.**—In designing and conducting the studies under this section, the Commission, the Secretary, and the National Academy shall consult with the Surgeon General and the Kids Online Safety Council.

(h) **ACCESS TO DATA.**

(1) **FACT-FINDING AUTHORITY.**—The Commission may issue orders to gather and compile information and data necessary to conduct the studies required under this section.
(2) **Scope.**—The Commission may issue orders under section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)) to no more than 5 covered platforms per study under this section.

(3) **Confidential Access.**—Pursuant to subsections (b) and (f) of section 6 of the Federal Trade Commission Act (15 U.S.C. 46), the Commission shall enter in agreements with the National Academy to share appropriate information received from a covered platform pursuant to an order under such subsection (b) for a comprehensive study under this section in a confidential and secure manner, and to prohibit the disclosure or sharing of such information by the National Academy.

**Sec. 8. Market Research.**

(a) **Market Research by Covered Platforms.**—The Federal Trade Commission, in consultation with the Secretary of Commerce, shall issue guidance for covered platforms seeking to conduct market- and product-focused research on minors. Such guidance shall include—

(1) a standard consent form that provides minors and their parents a clear, conspicuous, and easy-to-understand explanation of the scope and purpose of the research to be conducted, and provides an opportunity for informed consent; and
recommendations for research practices for
studies that may include minors, disaggregated by
the age ranges of 0-5, 6-9, 10-12, and 13-16.

(b) TIMING.—The Federal Trade Commission shall
issue such guidance not later than 18 months after the
date of enactment of this Act. In doing so, they shall seek
input from members of the public and the representatives
of the Kids Online Safety Council established under sec-
section 12.

10 SEC. 9. AGE VERIFICATION STUDY AND REPORT.

(a) STUDY.—The Director of the National Institute
of Standards and Technology, in coordination with the
Federal Communications Commission, Federal Trade
Commission, and the Secretary of Commerce, shall con-
duct a study evaluating the most technologically feasible
methods and options for developing systems to verify age
at the device or operating system level.

(b) CONTENTS.—Such study shall consider —

(1) the benefits of creating a device or oper-
ating system level age verification system;

(2) what information may need to be collected
to create this type of age verification system;

(3) the accuracy of such systems and their im-
pact or steps to improve accessibility, including for
individuals with disabilities;
(4) how such a system or systems could verify age while mitigating risks to user privacy and data security and safeguarding minors’ personal data, emphasizing minimizing the amount of data collected and processed by covered platforms and age verification providers for such a system; and

(5) the technical feasibility, including the need for potential hardware and software changes, including for devices currently in commerce and owned by consumers.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the agencies described in subsection (a) shall submit a report containing the results of the study conducted under such subsection to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

SEC. 10. GUIDANCE.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal Trade Commission, in consultation with the Kids Online Safety Council established under section 12, shall issue guidance to—

(1) provide information and examples for covered platforms and auditors regarding—
(A) identifying features that are used to
increase, sustain, or extend use of the covered
platform by a minor;

(B) safeguarding minors against the pos-
sible misuse of parental tools;

(C) best practices in providing minors and
parents the most protective level of control over
privacy and safety;

(D) using indicia or inferences of age of
users for assessing use of the covered platform
by minors;

(E) methods for evaluating the efficacy of
safeguards; and

(F) providing additional control options
that allow parents to address the harms de-
scribed in section 3(a); and

(2) outline conduct that does not have the pur-
pose or substantial effect of subverting or impairing
user autonomy, decision-making, or choice, or of
causing, increasing, or encouraging compulsive usage
for a minor, such as—

(A) de minimis user interface changes de-
derived from testing consumer preferences, includ-
ing different styles, layouts, or text, where such
changes are not done with the purpose of weak-
ening or disabling safeguards or parental controls;

(B) algorithms or data outputs outside the control of a covered platform; and

(C) establishing default settings that provide enhanced privacy protection to users or otherwise enhance their autonomy and decision-making ability.

(b) GUIDANCE TO SCHOOLS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Education, in consultation with the Federal Trade Commission and the Kids Online Safety Council established under section 12, shall issue guidance to assist to assist elementary and secondary schools in using the notice, safeguards and tools provided under this Act and providing information on online safety for students and teachers.

c) GUIDANCE ON KNOWLEDGE STANDARD.—Not later than 18 months after the date of enactment of this Act, the Federal Trade Commission shall issue guidance to provide information, including best practices and examples, for covered platforms to understand the Commission’s determination of whether a covered platform “had knowledge fairly implied on the basis of objective circumstances” for purposes of this Act.
(d) LIMITATION ON FEDERAL TRADE COMMISSION

GUIDANCE.—

(1) EFFECT OF GUIDANCE.—No guidance
issued by the Federal Trade Commission with re-
spect to this Act shall—

(A) confer any rights on any person, State, or locality; or

(B) operate to bind the Federal Trade
Commission or any person to the approach rec-
ommended in such guidance.

(2) USE IN ENFORCEMENT ACTIONS.—In any

enforcement action brought pursuant to this Act, the

Federal Trade Commission—

(A) shall allege a violation of a provision of

this Act; and

(B) may not base such enforcement action

on, or execute a consent order based on, prac-
tices that are alleged to be inconsistent with

guidance issued by the Federal Trade Commis-
sion with respect to this Act, unless the prac-
tices are alleged to violate a provision of this

Act.

SEC. 11. ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISS-

ION.—
(1) UNFAIR AND DECEPTIVE ACTS OR PRACTICES.—A violation of this Act shall be treated as
a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B)

(2) POWERS OF THE COMMISSION.—

(A) IN GENERAL.—The Federal Trade Commission (referred to in this section as the
“Commission”) shall enforce this Act in the same manner, by the same means, and with the
same jurisdiction, powers, and duties as though all applicable terms and provisions of the Fed-
eral Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of
this Act.

(B) PRIVILEGES AND IMMUNITIES.—Any person that violates this Act shall be subject to
the penalties, and entitled to the privileges and immunities, provided in the Federal Trade
Commission Act (15 U.S.C. 41 et seq.).

(3) AUTHORITY PRESERVED.—Nothing in this Act shall be construed to limit the authority of the
Commission under any other provision of law.
(b) **Enforcement by State Attorneys General.**

(1) **In general.**

(A) **Civil actions.**—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates this Act, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States or a State court of appropriate jurisdiction to—

(i) enjoin that practice;

(ii) enforce compliance with this Act;

(iii) on behalf of residents of the State, obtain damages, restitution, or other compensation, each of which shall be distributed in accordance with State law; or

(iv) obtain such other relief as the court may consider to be appropriate.

(B) **Notice.**—

(i) **In general.**—Before filing an action under subparagraph (A), the attorney
general of the State involved shall provide to the Commission—

(I) written notice of that action;

and

(II) a copy of the complaint for that action.

(ii) **Exemption.**—

(I) **In general.**—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph if the attorney general of the State determines that it is not feasible to provide the notice described in that clause before the filing of the action.

(II) **Notification.**—In an action described in subclause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(2) **Intervention.**—

(A) **In general.**—On receiving notice under paragraph (1)(B), the Commission shall
have the right to intervene in the action that is
the subject of the notice.

(B) **EFFECT OF INTERVENTION.**—If the
Commission intervenes in an action under para-
graph (1), it shall have the right—

(i) to be heard with respect to any
matter that arises in that action; and

(ii) to file a petition for appeal.

(3) **CONSTRUCTION.**—For purposes of bringing
any civil action under paragraph (1), nothing in this
Act shall be construed to prevent an attorney gen-
eral of a State from exercising the powers conferred
on the attorney general by the laws of that State
to—

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or
the production of documentary and other evi-
dence.

(4) **ACTIONS BY THE COMMISSION.**—In any
case in which an action is instituted by or on behalf
of the Commission for violation of this Act, no State
may, during the pendency of that action, institute a
separate action under paragraph (1) against any de-
defendant named in the complaint in the action insti-
tuted by or on behalf of the Commission for that violation.

(5) **VENUE; SERVICE OF PROCESS.**—

(A) **VENUE.**—Any action brought under paragraph (1) may be brought in—

(i) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(ii) a State court of competent jurisdiction.

(B) **SERVICE OF PROCESS.**—In an action brought under paragraph (1) in a district court of the United States, process may be served wherever defendant—

(i) is an inhabitant; or

(ii) may be found.

**SEC. 12. KIDS ONLINE SAFETY COUNCIL.**

(a) **ESTABLISHMENT.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall establish and convene the Kids Online Safety Council for the purpose of providing advice on matters related to this Act.

(b) **PARTICIPATION.**—The Kids Online Safety Council shall include diverse participation from—
(1) academic experts, health professionals, and members of civil society with expertise in mental health, substance use disorders, and the prevention of harms to minors;

(2) representatives in academia and civil society with specific expertise in privacy and civil liberties;

(3) parents and youth representation;

(4) representatives of covered platforms;

(5) representatives of the National Telecommunications and Information Administration, the National Institute of Standards and Technology, the Federal Trade Commission, the Department of Justice, and the Department of Health and Human Services;

(6) State attorneys general or their designees acting in State or local government;

(7) educators; and

(8) representatives of communities of socially disadvantaged individuals (as defined in section 8 of the Small Business Act (15 U.S.C. 637)).

(c) Activities.—The matters to be addressed by the Kids Online Safety Council shall include—

(1) identifying emerging or current risks of harms to minors associated with online platforms;
recommendation measures and methods for assessing, preventing, and mitigating harms to minors online;

(3) recommending methods and themes for conducting research regarding online harms to minors; and

(4) recommending best practices and clear, consensus-based technical standards for transparency reports and audits, as required under this Act, including methods, criteria, and scope to promote overall accountability.

SEC. 13. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on the date that is 18 months after the date of enactment of this Act.

SEC. 14. RULES OF CONSTRUCTION AND OTHER MATTERS.

(a) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to—

(1) preempt section 444 of the General Education Provisions Act (20 U.S.C. 1232g, commonly known as the "Family Educational Rights and Privacy Act of 1974") or other Federal or State laws governing student privacy;
(2) preempt the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.) or any rule or regulation promulgated under such Act; or

(3) authorize any action that would conflict with section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)).

(b) Determination of "Fairly Implied on the Basis of Objective Circumstances".—For purposes of enforcing this Act, in making a determination as to whether covered platform has knowledge fairly implied on the basis of objective circumstances that a user is a minor, the Federal Trade Commission shall rely on competent and reliable empirical evidence, taking into account the totality of the circumstances, including consideration of whether the operator, using available technology, exercised reasonable care.

(c) Protections for Privacy.—Nothing in this Act shall be construed to require—

(1) the affirmative collection of any personal data with respect to the age of users that a covered platform is not already collecting in the normal course of business; or

(2) a covered platform to implement an age gating or age verification functionality.
(d) COMPLIANCE.—Nothing in this Act shall be construed to restrict a covered platform's ability to—

(1) cooperate with law enforcement agencies regarding activity that the covered platform reasonably and in good faith believes may violate Federal, State, or local laws, rules, or regulations;

(2) comply with a civil, criminal, or regulatory inquiry or any investigation, subpoena, or summons by Federal, State, local, or other government authorities; or

(3) investigate, establish, exercise, respond to, or defend against legal claims.

(e) APPLICATION TO VIDEO STREAMING SERVICES.—

A video streaming service shall be deemed to be in compliance with this Act if it predominantly consists of news, sports, entertainment, or other video programming content that is preselected by the provider and not user-generated, and—

(1) any chat, comment, or interactive functionality is provided incidental to, directly related to, or dependent on provision of such content;

(2) if such video streaming service requires account owner registration and is not predominantly news or sports, the service includes the capability—
(A) to limit a minor’s access to the service, which may utilize a system of age-rating;

(B) to limit the automatic playing of on-demand content selected by a personalized recommendation system for an individual that the service knows is a minor;

(C) to provide an individual that the service knows is a minor with readily-accessible and easy-to-use options to delete an account held by the minor and delete any personal data collected from the minor on the service, or, in the case of a service that allows a parent to create a profile for a minor, to allow a parent to delete the minor’s profile, and to delete any personal data collected from the minor on the service;

(D) for a parent to manage a minor’s privacy and account settings, and restrict purchases and financial transactions by a minor, where applicable;

(E) to provide an electronic point of contact specific to matters described in this paragraph;

(F) to offer a clear, conspicuous, and easy-to-understand notice of its policies and prac-
tices with respect to personal data and the ca-
pabilities described in this paragraph; and

(G) when providing on-demand content, to
employ measures that safeguard against serving
advertising for narcotic drugs (as defined in
section 102 of the Controlled Substances Act
(21 U.S.C. 802)), tobacco products, gambling,
or alcohol directly to the account or profile of
an individual that the service knows is a minor.

SEC. 15. SEVERABILITY.

If any provision of this Act, or an amendment made
by this Act, is determined to be unenforceable or invalid,
the remaining provisions of this Act and the amendments
made by this Act shall not be affected.