



Sen. Michael E. Hastings

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1 AMENDMENT TO SENATE BILL 229

2 AMENDMENT NO. _____. Amend Senate Bill 229 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Student Online Personal Protection Act.

6 Section 5. Definitions. In this Act:

7 "Covered information" means personally identifiable
8 information or material or information that is linked to
9 personally identifiable information or material in any media or
10 format that is not publicly available and is any of the
11 following:

12 (1) Created by or provided to an operator by a student
13 or the student's parent or legal guardian in the course of
14 the student's, parent's, or legal guardian's use of the
15 operator's site, service, or application for K through 12
16 school purposes.

1 (2) Created by or provided to an operator by an
2 employee or agent of a school or school district for K
3 through 12 school purposes.

4 (3) Gathered by an operator through the operation of
5 its site, service, or application for K through 12 school
6 purposes and personally identifies a student, including,
7 but not limited to, information in the student's
8 educational record or electronic mail, first and last name,
9 home address, telephone number, electronic mail address,
10 or other information that allows physical or online
11 contact, discipline records, test results, special
12 education data, juvenile dependency records, grades,
13 evaluations, criminal records, medical records, health
14 records, a social security number, biometric information,
15 disabilities, socioeconomic information, food purchases,
16 political affiliations, religious information, text
17 messages, documents, student identifiers, search activity,
18 photos, voice recordings, or geolocation information.

19 "Interactive computer service" has the meaning ascribed to
20 that term in Section 230 of the federal Communications Decency
21 Act of 1996 (47 U.S.C. 230).

22 "K through 12 school purposes" means purposes that are
23 directed by or that customarily take place at the direction of
24 a school, teacher, or school district; aid in the
25 administration of school activities, including, but not
26 limited to, instruction in the classroom or at home,

1 administrative activities, and collaboration between students,
2 school personnel, or parents; or are otherwise for the use and
3 benefit of the school.

4 "Operator" means, to the extent that an entity is operating
5 in this capacity, the operator of an Internet website, online
6 service, online application, or mobile application with actual
7 knowledge that the site, service, or application is used
8 primarily for K through 12 school purposes and was designed and
9 marketed for K through 12 school purposes.

10 "School" means a school that offers any of grades
11 kindergarten through 12 and that is operated by a school
12 district.

13 "Targeted advertising" means presenting advertisements to
14 a student where the advertisement is selected based on
15 information obtained or inferred over time from that student's
16 online behavior, usage of applications, or covered
17 information. The term does not include advertising to a student
18 at an online location based upon that student's current visit
19 to that location or in response to that student's request for
20 information or feedback, without the retention of that
21 student's online activities or requests over time for the
22 purpose of targeting subsequent ads.

23 Section 10. Operator prohibitions. An operator shall not
24 knowingly do any of the following:

25 (1) Engage in targeted advertising on the operator's

1 site, service, or application or target advertising on any
2 other site, service, or application if the targeting of the
3 advertising is based on any information, including covered
4 information and persistent unique identifiers, that the
5 operator has acquired because of the use of that operator's
6 site, service, or application for K through 12 school
7 purposes.

8 (2) Use information, including persistent unique
9 identifiers, created or gathered by the operator's site,
10 service, or application to amass a profile about a student,
11 except in furtherance of K through 12 school purposes.
12 "Amass a profile" does not include the collection and
13 retention of account information that remains under the
14 control of the student, the student's parent or legal
15 guardian, or the school.

16 (3) Sell or rent a student's information, including
17 covered information. This subdivision (3) does not apply to
18 the purchase, merger, or other type of acquisition of an
19 operator by another entity if the operator or successor
20 entity complies with this Act regarding previously
21 acquired student information.

22 (4) Except as otherwise provided in Section 20 of this
23 Act, disclose covered information, unless the disclosure
24 is made for the following purposes:

25 (A) In furtherance of the K through 12 school
26 purposes of the site, service, or application if the

1 recipient of the covered information disclosed under
2 this clause (A) does not further disclose the
3 information, unless done to allow or improve
4 operability and functionality of the operator's site,
5 service, or application.

6 (B) To ensure legal and regulatory compliance or
7 protect against liability.

8 (C) To respond to or participate in the judicial
9 process.

10 (D) To protect the safety or integrity of users of
11 the site or others or the security of the site,
12 service, or application.

13 (E) For a school, educational, or employment
14 purpose requested by the student or the student's
15 parent or legal guardian, provided that the
16 information is not used or further disclosed for any
17 other purpose.

18 (F) To a third party if the operator contractually
19 prohibits the third party from using any covered
20 information for any purpose other than providing the
21 contracted service to or on behalf of the operator,
22 prohibits the third party from disclosing any covered
23 information provided by the operator with subsequent
24 third parties, and requires the third party to
25 implement and maintain reasonable security procedures
26 and practices.

1 Nothing in this Section prohibits the operator's use of
2 information for maintaining, developing, supporting,
3 improving, or diagnosing the operator's site, service, or
4 application.

5 Section 15. Operator duties. An operator shall do both of
6 the following:

7 (1) Implement and maintain reasonable security
8 procedures and practices appropriate to the nature of the
9 covered information and designed to protect that covered
10 information from unauthorized access, destruction, use,
11 modification, or disclosure.

12 (2) Delete, within a reasonable time period, a
13 student's covered information if the school or school
14 district requests deletion of covered information under
15 the control of the school or school district, unless a
16 student or his or her parent or legal guardian consents to
17 the maintenance of the covered information.

18 Section 20. Permissive use or disclosure. An operator may
19 use or disclose covered information of a student under the
20 following circumstances:

21 (1) If other provisions of federal or State law require
22 the operator to disclose the information, and the operator
23 complies with the requirements of federal and State law in
24 protecting and disclosing that information.

1 (2) For legitimate research purposes as required by
2 State or federal law and subject to the restrictions under
3 applicable State and federal law or as allowed by State or
4 federal law and under the direction of a school, school
5 district, or the State Board of Education if the covered
6 information is not used for advertising or to amass a
7 profile on the student for purposes other than for K
8 through 12 school purposes.

9 (3) To a State or local educational agency, including
10 schools and school districts, for K through 12 school
11 purposes, as permitted by State or federal law.

12 Section 25. Operator actions that are not prohibited. This
13 Act does not prohibit an operator from doing any of the
14 following:

15 (1) Using covered information to improve educational
16 products if that information is not associated with an
17 identified student within the operator's site, service, or
18 application or other sites, services, or applications
19 owned by the operator.

20 (2) Using covered information that is not associated
21 with an identified student to demonstrate the
22 effectiveness of the operator's products or services,
23 including in their marketing.

24 (3) Sharing covered information that is not associated
25 with an identified student for the development and

1 improvement of educational sites, services, or
2 applications.

3 (4) Using recommendation engines to recommend to a
4 student either of the following:

5 (A) Additional content relating to an educational,
6 other learning, or employment opportunity purpose
7 within an online site, service, or application if the
8 recommendation is not determined in whole or in part by
9 payment or other consideration from a third party.

10 (B) Additional services relating to an
11 educational, other learning, or employment opportunity
12 purpose within an online site, service, or application
13 if the recommendation is not determined in whole or in
14 part by payment or other consideration from a third
15 party.

16 (5) Responding to a student's request for information
17 or for feedback without the information or response being
18 determined in whole or in part by payment or other
19 consideration from a third party.

20 Section 30. Applicability. This Act does not do any of the
21 following:

22 (1) Limit the authority of a law enforcement agency to
23 obtain any content or information from an operator as
24 authorized by law or under a court order.

25 (2) Limit the ability of an operator to use student

1 data, including covered information, for adaptive learning
2 or customized student learning purposes.

3 (3) Apply to general audience Internet websites,
4 general audience online services, general audience online
5 applications, or general audience mobile applications,
6 even if login credentials created for an operator's site,
7 service, or application may be used to access those general
8 audience sites, services, or applications.

9 (4) Limit service providers from providing Internet
10 connectivity to schools or students and their families.

11 (5) Prohibit an operator of an Internet website, online
12 service, online application, or mobile application from
13 marketing educational products directly to parents if the
14 marketing did not result from the use of covered
15 information obtained by the operator through the provision
16 of services covered under this Act.

17 (6) Impose a duty upon a provider of an electronic
18 store, gateway, marketplace, or other means of purchasing
19 or downloading software or applications to review or
20 enforce compliance with this Act on those applications or
21 software.

22 (7) Impose a duty upon a provider of an interactive
23 computer service to review or enforce compliance with this
24 Act by third-party content providers.

25 (8) Prohibit students from downloading, exporting,
26 transferring, saving, or maintaining their own student

1 data or documents.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".