



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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February 19, 2025

The Honorable Wendy Harrison, Chair
Senate Committee on Institutions
Vermont Legislature
115 State Street
Montpelier, VT 05633

Re: SB 69 – An act relating to an age-appropriate design code

Dear Chair Harrison and members of the Committee:

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, Tallahassee, and Washington, D.C.

I write to respectfully express TechNet members' concerns with SB 69, which would require platforms to adopt the age-appropriate design code for Vermont consumers. While we share the sponsors' interest in providing a safe environment for kids online, we have concerns with the ability of platforms to implement this concept effectively.

TechNet strongly believes children deserve a heightened level of security and privacy and there are several efforts within the industry to incorporate protective design features into their websites and platforms. Our companies have been at the forefront of raising standards for teen safety and privacy across the industry by creating new features, settings, parental tools, and protections that are age-appropriate and tailored to the differing developmental needs of young people. Our member companies are committed to providing a safe, age-appropriate experience for young people online; however, we are opposed to this bill's approach for several reasons.

The requirements in this bill would be difficult for our companies to implement. How these standards are enforced is deeply concerning, as there is little guidance, few opportunities to fix mistakes, and contains an aggressive approach to fines and penalties. This bill outlines requirements for businesses, without illustrating the steps to come into compliance. Additionally, this bill is preempted by the Children's Online Privacy Protection Act, or "COPPA". SB 69 would change the threshold from COPPA's "directed to children" to "likely to be accessed by a minor". This is an overinclusive standard and would capture far more websites and platforms and subject them to this bill's requirements, which, as noted, are difficult to interpret and implement. Consideration should be given to websites, such as online news, which are likely to be accessed by users of all ages and do not require visitors to register to view content.

SB 69 would also require new standards for age verification. Age-verification is a complex challenge for our industry to address and requires consideration of how to properly balance the interests of privacy and security. Stringent age-verification requirements would require the collection of more personal information such as birthdates, addresses, and government IDs. The requirements of this bill would require companies to collect more personal information, which conflicts with data minimization principles. Efforts are ongoing to develop more privacy protective ways to verify age online. But until there are industry-wide tools available, age-verification will continue to have tradeoffs and be difficult to implement in practice. Unfortunately, no system is infallible.

California recently enacted the California Age-Appropriate Design Code Act, which impacted the structure and design of the Internet, ostensibly to protect minors, and would impose significant burdens on most online businesses. The law's provisions would have had a potentially sweeping impact on the entire internet, including:

- A broad definition of a child as anyone under age 18
- Mandate to design services for children even if the services aren't oriented to children
- Mandate to enforce community standards in reviews and other forums
- Elimination of secondary uses of data (such as analytics, product improvement, advertising, etc.)
- Onerous restrictions on collection and use of data, and
- Presumption that users are children unless proven otherwise.

Like SB 69, the law substantially limited how customer data can be used, shared, and retained and would potentially prohibit or significantly limit the use of ad-supported business models. It would require companies to set default privacy settings to a high level and restrict use of algorithms to augment, inform, or analyze the customer experience unless the company can prove with reasonable certainty the user is not a minor. Companies would be required to prepare Data Protection Impact Assessments to assess and articulate a plan to mitigate risks that any existing or new feature or service could expose children to "harmful, or

potentially harmful” content, conduct, targeted advertising, or contacts. Finally, it would eliminate enforcement discretion with respect to the business’s terms, policies, and community standards. As a result, California’s AADC law has been enjoined by the courts, and TechNet recommends that Vermont does not consider similarly unconstitutional legislation.

The Legislature this session will once again discuss comprehensive data privacy legislation. TechNet’s members contend that a strong, comprehensive data privacy law that is interoperable with existing state laws and enforced by the Attorney General will provide significantly more protection to Vermont citizens than a law that is likely to be enjoined by the courts.

Sincerely,



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