

January 11, 2024

South Carolina House Judiciary Committee
Blatt Building
1105 Pendleton St, Room 516
Columbia, SC 29201

Dear Committee Chairs and Members,

On behalf of the millions of taxpayers and consumers we represent, the Taxpayers Protection Alliance (TPA) urges you to reconsider H. 3424, the “Child Online Safety Act,” and H. 4700, the “South Carolina Social Media Regulation Act.” The former has vague definitions of pornography dissemination on top of subjective enforcement mechanisms. Meanwhile, the latter would violate clear Supreme Court precedent with broad age limitations on social media. While the goal of protecting children online is a worthy one, these bills fall short in ways that are legally dubious and would hurt South Carolina’s economy.

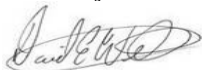
First, the constitutionality of age verification legislation remains – at best – highly questionable. In *NetChoice v. Griffin* (2023), the Court ruled a similar Arkansas bill requiring social media platforms to obtain age-verification and parental consent unconstitutionally violated the First Amendment. According to the American Civil Liberties Union, “Individuals of all ages rely on social media for political speech, artistic expression, advocacy, access to the news, and more. Imposing unconstitutional age-verification requirements burdens users who may want to engage in anonymous speech, who do not have government ID, and who are otherwise concerned about their privacy and security. The law’s parental consent requirement would also impermissibly burden the First Amendment rights of young people, who are often at the forefront of movements, trends, and technologies.”¹

Further, giving government such power would have wide-ranging effects that will extend far beyond social media. In *Brown v. Entertainment and Merchant Association* (2011), Justice Scalia wrote for the majority, “It does not follow that the state has the power to prevent children from hearing or saying anything without their parents’ prior consent.” The possibilities for government overreach will not stop with online discourse. Future legislators may not be so well-intended. Present respect for constitutional restraints will go a long way towards preventing abuse in the future.

There is also an inherent issue with pursuing and implementing legislation like this at the state level. Web-based companies doing business in the state would have to incur massive costs to avoid being out of compliance with the broad violation standards set forth. Further, their web traffic would be severely limited by the imposition of age restriction. They would be fundamentally at a disadvantage compared to their cross-country counterparts. This also presents a glaring constitutional issue of trying to regulate fundamentally interstate commerce at the state level.

As the nation comes to grips with the reality of social media and the digital economy broadly, finding the right balance is difficult. However, H. 3424 and H. 4700 both miss the mark in several ways that will ultimately harm the online equilibrium and the state altogether. It is for these reasons that TPA urges you to reconsider this legislation.

Sincerely,



David Williams
President

¹<https://www.aclu.org/press-releases/judge-blocks-arkansas-law-that-would-have-placed-unconstitutional-age-verification-and-parental-consent-requirements-on-social-media-users>