

**AMENDMENT TO THE AMENDMENT IN THE NATURE OF A  
SUBSTITUTE TO H.R. 7757**

**OFFERED BY MR. MULLIN OF CALIFORNIA**

Page 32, strike line 15, and all that follows through page 41, line 15 and insert the following (and update the table of contents accordingly):

**SEC. 231. SHORT TITLE.**

This subtitle may be cited as the “Safe Messaging for Kids Act” or the “SMK Act”.

**SEC. 232. DEFINITIONS.**

In this subtitle:

(1) **APP.**—The term “app” means a software application that may be run or directed by a user on a computer or mobile device.

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

(3) **COVERED USER.**—The term “covered user” means a user of a social media platform if the provider of such social media platform—

(A) has actual knowledge that the user is a minor; or

(B) has knowledge fairly implied on the basis of objective circumstances that such user is a minor.

(4) **DIRECT MESSAGING CONTROLS.**—The term “direct messaging controls” means a set of tools or settings that a provider of a social media platform provides to a covered user of the social media platform that allows the covered user to manage the use of a direct messaging feature by such covered user.

(5) DIRECT MESSAGING FEATURE.—

(A) IN GENERAL.—The term “direct messaging feature” means a function of a social media platform that enables a user to send a message, image, video, audio, or other communication directly to another user or a specific group of users of the social media platform.

(B) EXCLUSION.—The term “direct messaging feature” does not include a function of a social media platform that enables a user to post content on the social media platform to—

(i) a public or semi-public profile; or

(ii) a feed accessible to a broader group of users.

(6) MOBILE DEVICE.—The term “mobile device” means a phone or general purpose tablet that provides cellular or wireless connectivity, is capable of connecting to the Internet, and is capable of running third-party applications.

(7) SOCIAL MEDIA PLATFORM.—The term “social media platform” means a platform that is accessed via an app connected to the internet that—

(A) is publicly available for use by consumers;

(B) enables the creation of a username or user identifier—

(i) that is searchable on the platform; and

(ii) that can be followed by or is otherwise accessible to other users of the platform;

(C) as the primary purpose of the platform, facilitates the sharing and access to user-generated content through text, images, video, audio, or any other interactive medium;

(D) uses a design feature to promote user engagement on the platform; and

(E) uses the personal information of the user to advertise, market, or make content recommendations.

**SEC. 233. PARENTAL OVERSIGHT OF CONTROLS FOR DIRECT MESSAGING OF MINORS.**

A provider of a social media platform that offers, provides, or enables any direct messaging feature of such social media platform to any covered user of the social media platform shall provide a parental tool to allow a parent of a covered user to view the covered user's direct messaging control settings as defined in section 234.

**SEC. 234. CONTROLS FOR DIRECT MESSAGING OF MINORS.**

(a) REQUIREMENT.—A provider of a social media platform that offers, provides, or enables any direct messaging feature of such social media platform to any covered user of the social media platform shall provide easily accessible and usable direct messaging controls to a covered user that the covered user may activate and manage.

(b) ACCESSIBILITY; USABILITY; AWARENESS.—The direct messaging controls described in subsection (a) shall meet the following requirements:

(1) Be clearly and conspicuously accessible to a covered user through—

(A) the settings of a profile of the covered user; and

(B) any interface offered by the social media platform.

(2) Be designed to be user-friendly with clear explanations of the manner in which the direct messaging controls operate.

(c) FUNCTIONALITY OF CONTROLS.—As a default setting on a social media platform, the direct messaging controls described in subsection (a) shall allow a covered user of the social media platform to do the following:

(1) Receive a timely notification that—

(A) alerts the covered user about a request from another user who seeks to initiate direct messaging with the covered user; and

(B) allows the covered user to approve or deny a request before another user and the covered user engage in any direct messaging.

(2) View and manage a list of any contacts allowed to engage in direct messaging with the covered user.

(3) Disable any direct messaging feature of a profile of the covered user.

(4) Prevent any specific user, any specific group of users, or other users in general, from initiating or continuing to engage in direct messaging with the covered user.

(5) Enable the covered user to set their profile as hidden such that—

(A) other users are prevented from searching for and finding the profile of the covered user on the platform;

(B) other users are prevented from seeing the current online or offline status of the covered user; and

(C) other users are prevented from initiating or continuing to engage in direct messaging with the covered user.

(d) NO DEGRADATION OF OTHER FEATURES OR SERVICES.—A provider of a social media platform may not degrade the functionality or availability of any other feature or service of the social media platform for a covered user of the social media platform based on the activation or management of direct messaging controls by a covered user under this section (except as necessary to implement the direct messaging controls).

**SEC. 235. PREEMPTION.**

The provisions of this subtitle shall preempt any State law, rule, or regulation only to the extent that such State law, rule, or regulation conflicts with a provision of this subtitle. Nothing in this subtitle shall be construed to prohibit any State from enacting or enforcing a law, rule, or regulation that provides greater protection to children or teens than the provision of this title.

**SEC. 236. SEVERABILITY.**

If any provision of this subtitle or the application of this subtitle to any person or circumstance is held to be unconstitutional, the remaining provisions of this subtitle and the application of this subtitle to other persons or circumstances shall not be affected.

**SEC. 237. EFFECTIVE DATE.**

This subtitle shall take effect on the date that is 180 days after the date of the enactment of this subtitle.