

117TH CONGRESS
1ST SESSION

S. 2917

To establish a Federal tort against social media companies that cause bodily injury to children or harm the mental health of children.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 2021

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish a Federal tort against social media companies that cause bodily injury to children or harm the mental health of children.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Big Tech Tort
5 Act”.

6 **SEC. 2. FEDERAL TORT FOR SOCIAL MEDIA HARM TO CHIL-**
7 **DREN.**

8 (a) DEFINITIONS.—In this section—

9 (1) the term “covered interactive computer
10 service” means an interactive computer service—

1 (A) provided through a website, online ap-
2 plication, or mobile application (including a sin-
3 gle interactive computer service that is provided
4 through more than one such website or applica-
5 tion);

6 (B) through which information provided by
7 another information content provider is distrib-
8 uted;

9 (C) that enables an individual user to cre-
10 ate an account for the purpose of viewing, gen-
11 erating, or modifying content that can be
12 viewed, shared, or otherwise interacted with by
13 other third-party users of the interactive com-
14 puter service; and

15 (D) that does not have peer-to-peer mes-
16 saging as its principal function;

17 (2) the term “interactive computer service” has
18 the meaning given the term in section 230 of the
19 Communications Act of 1934 (47 U.S.C. 230); and

20 (3) the term “social media company”—

21 (A) means a company that provides, in or
22 affecting interstate or foreign commerce, a cov-
23 ered interactive computer service; and

24 (B) does not include an organization de-
25 scribed in section 501(c) of the Internal Rev-

1 enue Code of 1986 and exempt from taxation
2 under section 501(a) of such Code.

3 (b) LIABILITY.—A social media company shall be lia-
4 ble in accordance with this section to any individual who
5 suffers bodily injury or harm to mental health that is at-
6 tributable, in whole or in part, to the individual's use of
7 a covered interactive computer service provided by the so-
8 cial media company when the individual was less than 16
9 years of age.

10 (c) PRIVATE RIGHT OF ACTION.—An individual who
11 suffers bodily injury or harm to mental health that is at-
12 tributable, in whole or in part, to the individual's use of
13 a covered interactive computer service provided by a social
14 media company as described in subsection (b) may bring
15 a civil action against the social media company in an ap-
16 propriate district court of the United States or a State
17 court of competent jurisdiction for—

18 (1) compensatory damages in an amount equal
19 to the greater of—

20 (A) the amount obtained by—

21 (i) for each year in which the indi-
22 vidual suffered such injury or harm attrib-
23 utable, in whole or in part, to such use, di-
24 viding—

1 (I) the annual revenue of the so-
2 cial media company in the United
3 States during that year, by

4 (II) the number of active users of
5 the covered interactive computer serv-
6 ice during the month that had the
7 fewest such users during that year;
8 and

9 (ii) adding together the amounts cal-
10 culated under clause (i) for each year in
11 which the individual suffered such injury
12 or harm attributable, in whole or in part,
13 to such use; or

14 (B) actual damages;

15 (2) punitive damages; and

16 (3) attorney's fees and costs.

17 (d) AFFIRMATIVE DEFENSE.—It shall be an affirma-
18 tive defense to an action brought by or on behalf of a user
19 of a covered interactive computer service provided by a
20 social media company under subsection (c) that the social
21 media company, at all relevant times—

22 (1) took reasonable, affirmative steps to ascer-
23 tain the age of each user of the covered interactive
24 computer service; and

1 (2) did not know and had no reason to know
2 that the user in question was less than 16 years of
3 age when the user used the interactive computer
4 service.

5 (e) EFFECTIVE DATE; APPLICABILITY.—This Act—

6 (1) shall take effect on the date that is 180
7 days after the date of enactment of this Act; and

8 (2) shall not apply to any use of a covered
9 interactive computer service that took place before
10 the effective date under paragraph (1).

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