



AN ACT BANNING TIKTOK IN MONTANA; PROHIBITING A MOBILE APPLICATION STORE FROM OFFERING THE TIKTOK APPLICATION TO MONTANA USERS; PROVIDING FOR PENALTIES; PROVIDING FOR ENFORCEMENT AUTHORITY; PROVIDING DEFINITIONS; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING A DELAYED EFFECTIVE DATE.

WHEREAS, the People's Republic of China is an adversary of the United States and Montana and has an interest in gathering information about Montanans, Montana companies, and the intellectual property of users to engage in corporate and international espionage; and

WHEREAS, TikTok is a wholly owned subsidiary of ByteDance, a Chinese corporation; and

WHEREAS, the People's Republic of China exercises control and oversight over ByteDance, like other Chinese corporations, and can direct the company to share user information, including real-time physical locations of users; and

WHEREAS, TikTok gathers significant information from its users, accessing data against their will to share with the People's Republic of China; and

WHEREAS, TikTok fails to remove, and may even promote, dangerous content that directs minors to engage in dangerous activities, including but not limited to throwing objects at moving automobiles, taking excessive amounts of medication, lighting a mirror on fire and then attempting to extinguish it using only one's body parts, inducing unconsciousness through oxygen deprivation, cooking chicken in NyQuil, pouring hot wax on a user's face, attempting to break an unsuspecting passerby's skull by tripping him or her into landing face first into a hard surface, placing metal objects in electrical outlets, swerving cars at high rates of speed, smearing human feces on toddlers, licking doorknobs and toilet seats to place oneself at risk of contracting coronavirus, attempting to climb stacks of milkcrates, shooting passersby with air rifles, loosening lug nuts on vehicles, and stealing utilities from public places; and

WHEREAS, TikTok's stealing of information and data from users and its ability to share that data with

the Chinese Communist Party unacceptably infringes on Montana's right to privacy; and

WHEREAS, TikTok's continued operation in Montana serves as a valuable tool to the People's Republic of China to conduct corporate and international espionage in Montana and may allow the People's Republic of China to track the real-time locations of public officials, journalists, and other individuals adverse to the Chinese Communist Party's interests; and

WHEREAS, TikTok's allowance and promotion of dangerous challenges threatens the health and safety of Montanans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Prohibition -- penalty -- enforcement -- definitions. (1) TikTok may not operate within the territorial jurisdiction of Montana. An entity violates this prohibition when any of the following occurs within the territorial jurisdiction of Montana:

- (a) the operation of tiktok by the company or users; or
- (b) the option to download the tiktok mobile application by a mobile application store.

(2) An entity that violates a provision of this section is liable in the amount of \$10,000 for each discrete violation and is liable for an additional \$10,000 each day thereafter that the violation continues.

(3) It is an affirmative defense to this section if the violating entity could not have reasonably known that the violation occurred within the territorial jurisdiction of Montana.

(4) Penalties under this section do not apply to law enforcement activities, national security interests and activities, security research activities, or essential government uses permitted by the governor on the information technology system of the state.

(5) Penalties in this section do not apply to users of tiktok.

(6) The department of justice shall enforce the provisions of this section.

(7) As used in this section, the following definitions apply:

(a) "Discrete violation" means each time that a user accesses tiktok, is offered the ability to access tiktok, or is offered the ability to download tiktok.

(b) "Entity" means a mobile application store or tiktok.

- (c) "Mobile application" means a type of software program designed to run on a mobile device.
- (d) "Territorial jurisdiction" means all places subject to the criminal jurisdiction of Montana.
- (e) "Tiktok" means the social networking service owned by the Chinese company bytedance limited or any successors.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, applies to [section 1].

Section 3. Severability. Each part of [this act] is severable. If any part of [this act] is invalid, illegal, or unenforceable, all valid parts remain in effect. If a part of [this act] is invalid in one or more of its applications, only those applications may be void and the remaining valid applications remain in effect as severable from the invalid applications and parts.

Section 4. Contingent voidness. [This act] is void if tiktok is acquired by or sold to a company that is not incorporated in any other country designated as a foreign adversary in 15 C.F.R. 7.4 at the time tiktok is sold or acquired.

Section 5. Effective date. [This act] is effective January 1, 2024.

- END -

I hereby certify that the within bill,
SB 419, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 419

INTRODUCED BY S. VANCE

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