



The Honorable Philip Baruth  
Senate President Pro Tempore  
115 State Street, Montpelier, VT 05633

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

The Honorable Jill Krowinski  
Speaker of the House  
115 State Street, Montpelier, VT 05633

March 10, 2025

Dear Senate President Pro Tempore Philip Baruth and Chair Wendy Harrison:

The American Consumer Institute is an independent education and research organization that promotes consumer-focused free-market solutions to state and federal policy challenges.

Lawmakers across the country are taking action to address the noble cause of child online safety—a goal that is shared by the American Consumer Institute. But those concerns will not be adequately addressed with age appropriate design codes that rely on legally dubious policy actions to address a largely misunderstood problem.

S. 69 establishes a “minimum duty of care” to ensure that businesses do not cause emotional distress. It relies on a commonly misunderstood relationship between minors and social media use. A Consensus Study Report by the National Academy of Sciences, Engineering, and Medicine finds the relationship between social media and adolescent mental health is “mixed and weak.”<sup>1</sup> Even famous researcher Jonathan Haidt finds only a measly 0.17 correlation between social media and declining mental health when anything below 0.2 is considered weak.<sup>2</sup>

The uncomfortable reality is that—even in an era of increasingly sophisticated datasets and research techniques—we still know relatively little about the impact of technology use on youth mental wellbeing.<sup>3</sup> It would therefore not be prudent for lawmakers to enshrine into law rules based on inconclusive evidence before the reason for declining mental health among teens is more clearly established. Lawmakers in the states—and in Washington—should approach the issue with caution and humility, both as a matter of policy and legality.

Unlike proposals in other states that rely on explicit age verification requirements to access social media, age appropriate design codes, including S.69, implicitly impose those requirements by establishing certain standards companies must follow to make online content safe for children. As Alex Ambrose and Ash Johnson of the Information Technology & Innovation Foundation (ITIF) put it, “age appropriate design codes are just age verification in disguise.”<sup>4</sup> To comply with the law,

---

<sup>1</sup> Tirzah Duren, “KOSA: A Solution in Search of a Problem,” Washington Times, July 23, 2024, <https://www.washingtontimes.com/news/2024/jul/23/kosa-solution-in-search-of-problem/>.

<sup>2</sup> Ibid.; and Spyridon N Papageorgiou, “On Correlation Coefficients and their Interpretation,” National Library of Medicine, Aug 26, 2022; 49(3):359–361. doi: [10.1177/14653125221076142](https://doi.org/10.1177/14653125221076142).

<sup>3</sup> Will Rinehart, “Teens and the Impact of Social Media, A Deep Dive Into Recent Work from Haidt,” May 5, 2022, <https://www.williamrinehart.com/2022/teens-and-the-impact-of-social-media/>.

<sup>4</sup> Age-Appropriate Design Codes are Just Age Verification in Disguise, Information Technology & Innovation Foundation, May 24, 2024, <https://itif.org/publications/2024/05/24/age-appropriate-design-codes-are-age-verification-in-disguise/>.

companies will likely still need to verify age to determine which users are children, and therefore will need to collect more sensitive personal information, not less. S. 69 rightly limits that data collection to what is necessary for determining age and requires most of it to be deleted after ages are verified.<sup>5</sup> But as that information switches from users to companies, the effect of the law will be to inadvertently increase the attack surface for nefarious actors preying on heightened information flow and increased data security weaknesses.

Finally, if Vermont lawmakers ultimately decide to pass S. 69, the state should be prepared to defend its decision in court. Vermont is not the first state to pursue an age appropriate design code, nor would it be the first state to run afoul of the first amendment for this approach. The Vermont proposal structurally emulates parts of the California age appropriate design code, which has already been enjoined by the United States District Court for the Northern District of California.<sup>6</sup>

Policymakers may not intend to jeopardize user privacy in a legally dubious proposal to protect kids online, but that will be the effect of this proposal. The Vermont legislature should abandon this effort entirely. The least policymakers should do is forestall heavy-handed policy action until more research is conducted, published, and debated. And then once research on youth mental health and online activity has been solidified, policymakers should pursue policy action that is less likely to violate the first amendment. A course correction is in order.

Sincerely,

Logan Kolas  
*Director of Technology Policy*  
American Consumer Institute

---

<sup>5</sup> Vermont, Senate, Vermont Age-Appropriate Design Code Act, S.69, 2026 Sess., introduced February 13, 2025, <https://legislature.vermont.gov/bill/status/2026/S.69>.

<sup>6</sup> NetChoice, LLC v. Bonta, No. 23-2969 (9th Cir. Aug. 16, 2024), <https://cdn.ca9.uscourts.gov/datastore/opinions/2024/08/16/23-2969.pdf>.