

Minnesota HF 4138 / SF 4696

Veto Request

May 18, 2026

**The Honorable Tim Walz
Governor Of Minnesota**

Dear Governor Walz,

On behalf of NetChoice, a trade association representing leading internet businesses committed to free expression and free enterprise online, we respectfully request that you veto Minnesota HF 4138/SF 4696, the Stop the Harms from Addictive Social Media Act. NetChoice shares the Legislature's concern for the wellbeing of young Minnesotans, HF 4138/SF 4696 would not accomplish this. This bill is riddled with serious constitutional defects that courts have already identified and struck down in materially identical laws enacted by other states. If enacted, it will not survive legal challenge — and in the meantime, it will impose real harms on Minnesotans' access to protected speech and on the businesses that serve them.

HF 4138/SF 4696 suffers from significant constitutional flaws including:

1. HF 4138/ SF 4696 violates the First Amendment rights of platforms and users alike by imposing content-based restrictions on speech dissemination, curation, and viewing;
2. HF 4138/SF 4696 erects unconstitutional barriers to users' access to protected speech through mandatory age estimation and parental consent requirements;
3. HF 4138/SF 4696 operates as an unconstitutional prior restraint on speech; and
4. HF 4138/SF 4696 is independently unconstitutional under the Due Process Clause for vagueness, with no clear compliance standards for businesses facing \$10,000 per violation statutory penalties.

The Bill Violates the First Amendment Rights of Minnesota Users and Platforms Alike

This bill imposes content based limitations on speech dissemination, curation, and viewing that federal courts have repeatedly held unconstitutional. The bill's age estimation and parental consent requirements function as a gatekeeping mechanism, users must submit to demographic profiling before accessing a platform's content. The Supreme Court has been clear since *Reno v. ACLU*, 521 U.S. 844 (1997), and reaffirmed in *Ashcroft v. ACLU*, 542 U.S. 656 (2004), that the government may not impose such preconditions on access to lawful speech. The bill's parental consent requirement is no better: the Supreme Court invalidated equivalent requirements in *Brown v. Entertainment Merchants Ass'n*, 564 U.S. 786 (2011), recognizing that they impermissibly chill speech by dissuading willing speakers and listeners from participating.

If the parental consent requirement seen in *Brown v. Entertainment Merchants Ass'n* was unconstitutional for violent video games, it is certainly unconstitutional for the expansive universe of protected speech available on social media. Social media encompasses far broader speech than communicating with friends, or watching videos. Access to social media can be a lifetime for LGBTQ youth who need access to safe spaces online that they may not be able to find at home, or school, or even from their parents.

The Bill Is Unconstitutionally Overbroad and Operates as a Prior Restraint

This bill's broad ban on so-called "addictive" features sweeps in a substantial amount of constitutionally protected activity that has nothing to do with alleged harm to minors. Features like push notifications and content personalization serve legitimate communicative functions, used by adults and minors alike. The First Amendment demands that laws restricting speech be narrowly tailored to serve a compelling government interest. A sweeping categorical ban on "addictive" design features does not meet that standard.

Courts across the country have enjoined nearly identical age assurance and parental consent schemes in other states' laws, as seen in several cases NetChoice itself has litigated, including

- *NetChoice v. Griffin*, 2023 WL 5660155 (W.D. Ark. Aug. 31, 2023) — Arkansas's age-verification and parental consent requirement for social media enjoined as unconstitutional under the First Amendment.

- *NetChoice v. Yost*, 716 F. Supp. 3d 539 (S.D. Ohio 2024) — Ohio's attempt to limit minor access to social media through a contract exception to the First Amendment rejected; law enjoined.
- *NetChoice v. Reyes*, 748 F. Supp. 3d 1105 (D. Utah 2024) — Utah's age verification and parental consent requirements for social media enjoined as unconstitutional.
- *NetChoice v. Bonta*, 770 F. Supp. 3d 1164 (N.D. Cal. 2025) — California's age-appropriate design code, including its age assurance and content restriction requirements, enjoined as unconstitutional under the First Amendment.

The age estimation and parental consent framework also operates as a prior restraint — requiring affirmative government approved authorization before content can be accessed at all. Prior restraints carry the heaviest presumption of unconstitutionality under the First Amendment, and courts have been particularly skeptical of digital prior restraints since *Reno v. ACLU*.

HF 4138 Endangers Children's Privacy Rather Than Protecting It

Among the bill's most serious practical defects is to comply with HF 4138/SF 4696's age estimation and verification requirements, platforms must collect sensitive personal data from every user. Documents that conclusively establish users' birthdates are likely to be government issued IDs. Large scale mandatory collection of highly sensitive government identification data from millions of Minnesotans increases the risk that it will be captured and misused by hackers, identity thieves, and other predators.

Requirements that such data be deleted or used only for limited purposes will not cure these concerns. A platform facing liability if it fails to verify a user's age will be compelled to retain that information to demonstrate compliance in the event of an investigation, or lawsuit. In other words, HF 4138/SF 4696 will require websites to store and produce sensitive government identification data at the government's request, a hacker's dream, and families nightmare.

The Bill Is Unconstitutionally Vague

Even setting aside the First Amendment, HF 4138 independently violates the Due Process Clause. Standards like "80% confidence" in age estimation, "reasonable means and reasonable efforts," and the definition of what constitutes an "addictive" feature provide platforms with no clear guidance on what compliance actually requires. Vague laws are unconstitutional both because they fail to give fair notice and because they invite arbitrary enforcement — a concern that is especially acute here, with \$10,000 per violation statutory damages are attached to each individual violation.

Conclusion

NetChoice has been clear throughout our engagement that an unconstitutional law protects no one. Minnesota deserves a child safety strategy that will actually withstand legal scrutiny and deliver real results for families. HF 4138/SF 4696 is not that strategy. It is constitutionally defective legislation that will be enjoined by federal courts before it can take effect — at significant cost to Minnesota taxpayers — while doing nothing to protect the children it claims to serve. We urge you to veto this bill and uphold the constitutional rights to free expression and access to protected online speech for every Minnesotan, while simultaneously saving the taxpayer and state legal authorities valuable money and time. Thank you for your consideration.

Sincerely,

Tyler Fields
Government Affairs Associate, NetChoice¹

NetChoice is a trade association that works to protect free expression and promote free enterprise online.

¹ The views of NetChoice expressed here do not necessarily represent the views of all NetChoice members.