

New Hampshire Committee on Commerce and Consumer Affairs

January 27, 2026

Dear Chairman Hunt, Vice Chair Potucek, and Members of the Committee,

I write to express serious concerns regarding HB 1650, the Age-Appropriate Design Code Act. While the stated goal of protecting minors online is laudable, this legislation would ultimately undermine free speech, erode privacy, expand government power in constitutionally troubling ways, and simultaneously impose heavy economic and administrative burdens on businesses and taxpayers alike.

I. Threats to Free Speech and User Autonomy

HB 1650 empowers the Attorney General to prohibit data processing or design practices that, in the Attorney General's opinion, "lead to compulsive use or subvert or impair user autonomy, decision making, or choice." This is an extraordinarily vague and subjective standard. It invites viewpoint-driven enforcement and chills lawful expression and product design decisions protected by the First Amendment.

The bill further restricts algorithmic recommendations for minors to such an extent that it functionally discourages personalization altogether. Recommendation systems aren't simply marketing tools; They're a core mechanism through which users discover goods, services, and speech they actively seek. Limiting these systems, even for minors, risks suppressing access to lawful content and burdening platforms' ability to present speech in a manner users find useful.

Courts have repeatedly held that laws regulating the design of online services and the presentation of content implicate First Amendment protections. This bill certainly invites a constitutional challenge and would likely face litigation immediately upon passage.

II. Privacy Paradox: Mandating Age Verification at Scale

Although the bill purports to protect privacy, its practical effect will be the opposite. By requiring businesses to determine whether users are minors, under threat of enforcement, the legislation strongly incentivizes widespread age verification systems.

Even with guardrails in Section 359-C:28, age assurance inevitably means collecting more sensitive data from more users. To comply, many platforms will be driven toward collecting government IDs, biometric markers, or third-party identity verification, precisely the kinds of systems privacy advocates have long warned

against. This creates centralized honeypots of sensitive data, increases cybersecurity risk, and exposes all users (not just minors) to new vulnerabilities.

New Hampshire should be cautious about creating a regime that pressures the private sector into building an age-verification infrastructure that resembles a digital ID system in practice. This is the kind of proposal we saw coming out of the U.K., which wanted to put forward a mandatory digital identity scheme, and has arrested individuals over things they've posted online. Creating a hard link between an individual and their online account could subject them to harassment by their government for holding positions the government finds adversarial.

III. Government Overreach and Delegation of Legislative Power

The rulemaking authority granted to the Attorney General under Section 359-C:29 is sweeping. The Attorney General is tasked with continually updating rules every two years to prohibit any practices that, in their view, "subvert or impair user autonomy" and allow the regulator to "keep pace with emerging technology." This effectively delegates broad legislative authority to the executive branch with no meaningful limiting principle.

Businesses will be left guessing what is permissible from year to year, unable to rely on stable rules. This lack of predictability undermines due process and creates a regulatory environment hostile to innovation and investment.

IV. Burdens on Small Businesses and Competition

The bill's definition of "covered business" is broad and captures any company generating a majority of its revenue online whose services are reasonably likely to be accessed by minors, a threshold that can be as low as two percent of the audience. This sweeps in countless small businesses, startups, educational platforms, niche forums, and local enterprises.

Compliance with the bill's requirements, such as privacy-by-default architecture, extensive documentation, algorithmic transparency disclosures, age assurance systems, data minimization mandates, and ongoing legal review, will require substantial legal, engineering, and compliance staff. Large incumbents may be able to absorb these costs. Smaller competitors will certainly not. The result will be reduced competition, fewer choices for consumers, and a market tilted even further toward dominant firms.

It's a recipe ripe for creating regulatory entrenchment.

V. Fiscal Impact and Litigation Risk

It is also worth noting that the fiscal note attached to this bill concedes uncertainty regarding expenditures. In reality, the costs to the state are likely to be significant. Rulemaking, enforcement, investigations, and inevitable litigation will require substantial staffing and resources within the Attorney General's office, which is responsible for overseeing this law should it pass.

Given the serious constitutional questions this bill raises, particularly around free speech and compelled design, it's highly likely that the state will face immediate legal challenges. The costs of defending such litigation will fall on New Hampshire taxpayers, diverting future resources from core public priorities.

VI. The Fiscal Note Underscores the Bill's Practical Deficiencies

The legislation's fiscal note admits that the bill will require new staff, including specialized technical expertise, but most importantly, provides no appropriations and no clear estimate of scope. That is a massive red flag.

VII. Better Alternatives Exist

Protecting minors online is an important goal, but there are more effective and less intrusive approaches. These include empowering parents with better tools, promoting digital literacy education, encouraging voluntary industry best practices, and enforcing existing laws against harmful conduct. Heavy-handed regulatory frameworks modeled on Europe and California risk importing their failures without delivering meaningful benefits.

VIII. Conclusion

New Hampshire has long prided itself on a commitment to individual liberty, limited government, and free enterprise. HB 1650 cuts directly against those traditions.

For these reasons, I urge the Committee to reject HB 1650.

Sincerely,

James Czerniawski

Head of Emerging Technology Policy

Consumer Choice Center