

1 SENATE BILL NO. 419  
2 INTRODUCED BY S. VANCE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT BANNING ~~TIKTOK IN MONTANA~~ SOCIAL MEDIA APPLICATIONS  
5 THAT SEND DATA TO FOREIGN ADVERSARIES ON ALL ELECTRONIC DEVICES; ~~PROHIBITING AN~~  
6 ~~INTERNET SERVICE PROVIDER FROM ALLOWING THE OPERATION OF TIKTOK IN THE STATE;~~  
7 ~~PROHIBITING A~~ MOBILE APPLICATION STORE FROM OFFERING THE TIKTOK APPLICATION TO  
8 SOCIAL MEDIA APPLICATION FROM TRANSFERRING USER INFORMATION OR DATA OBTAINED FROM  
9 MONTANA USERS TO FOREIGN ADVERSARIES; PROVIDING FOR PENALTIES; PROVIDING FOR  
10 ENFORCEMENT AUTHORITY; PROVIDING DEFINITIONS; PROVIDING FOR CONTINGENT VOIDNESS;  
11 AND PROVIDING A DELAYED EFFECTIVE DATE."

12  
13 WHEREAS, ~~the People's Republic of China is an adversary~~ foreign adversaries of the United States  
14 and Montana ~~and has~~ have an interest in gathering information about Montanans, Montana companies, and the  
15 intellectual property of users to engage in corporate and international espionage; and

16 ~~WHEREAS, TikTok is a wholly owned subsidiary of ByteDance, a Chinese corporation; and~~  
17 ~~WHEREAS, the People's Republic of China exercises control and oversight over ByteDance, like other~~  
18 ~~Chinese corporations, and can direct the company to share user information, including real-time physical~~  
19 ~~locations of users; and~~

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

22 ~~WHEREAS, TikTok fails to remove, and may even promote, dangerous content that directs minors to~~  
23 ~~engage in dangerous activities, including but not limited to throwing objects at moving automobiles, taking~~  
24 ~~excessive amounts of medication, lighting a mirror on fire and then attempting to extinguish it using only one's~~  
25 ~~body parts, inducing unconsciousness through oxygen deprivation, cooking chicken in NyQuil, pouring hot wax~~  
26 ~~on a user's face, attempting to break an unsuspecting passerby's skull by tripping him or her into landing face~~  
27 ~~first into a hard surface, placing metal objects in electrical outlets, swerving cars at high rates of speed,~~

**Amendment - 2nd Reading/2nd House-tan - Requested by: Katie Sullivan - (H) Committee of the Whole**

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Drafter: Jameson Walker, 406-444-3722

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1 ~~smearing human feces on toddlers, licking doorknobs and toilet seats to place oneself at risk of contracting~~  
2 ~~coronavirus, attempting to climb stacks of milkcrates, shooting passersby with air rifles, loosening lug nuts on~~  
3 ~~vehicles, and stealing utilities from public places; and~~

4 WHEREAS, ~~TikTok's stealing a foreign adversary's collection and use~~ of information and data from  
5 ~~Montana users and its ability to share that data with the Chinese Communist Party~~ unacceptably infringes on  
6 Montana's right to privacy; ~~and~~

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

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

13

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

15

16 NEW SECTION. Section 1. Prohibition -- penalty -- enforcement -- definitions. (1) ~~TikTok-Social~~  
17 ~~media applications~~ may not operate within the territorial jurisdiction of Montana. ~~An entity violates this~~  
18 ~~prohibition when it aids, abets, facilitates, or allows any of the following to occur~~ OCCURS ~~within the territorial~~  
19 ~~jurisdiction of Montana if the social media applications allow:~~

20 (a) ~~the operation of tiktok by the company or users~~ the collection of personal information or data;

21 ~~OR and~~

22 (b) ~~the offering of tiktok by an internet service provider; and~~

23 (c) ~~(b) the option to download the tiktok mobile application by a mobile application store~~

24 (b) the data to be transferred to a person or entity within a country designated as a foreign  
25 adversary pursuant to 15 CFR 7.4.

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

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

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

6 (5) Penalties in this section do not apply to users of ~~tiktok~~ the social media application.

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

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

9 (a) "Discrete violation" means each time ~~that a user accesses tiktok, is offered the ability to access~~  
10 ~~tiktok, or is offered the ability to download tiktok~~ data or information is transferred to or accessed by a foreign  
11 adversary.

12 ~~(b) "Entity" means an internet service provider, a mobile application store, or tiktok.~~

13 ~~(c) "Mobile application" means a type of software program designed to run on a mobile device.~~

14 ~~(d)~~ (i) "Social media application" means a person or entity that owns or operates an internet-based  
15 electronic application through which content can be shared by users, including but not limited to commentary,  
16 videos, still photographs, blogs, videos blogs, podcasts, and music.

17 (ii) The term does not include:

18 (A) internet service providers; or

19 (B) internet-based applications that are:

20 (I) used or provided by an educational institution and intended solely for educational purposes; or

21 (II) used or provided by an employer and intended solely for business-related purposes among  
22 employees.

23 (c) "Territorial jurisdiction" means all places subject to the criminal jurisdiction of Montana.

24 ~~(e) "Tiktok" means the social networking service owned by the Chinese company bytedance~~  
25 ~~limited or any successors.~~

26

27 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an

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1 integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, applies to [section 1].

2

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

7

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

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12 NEW SECTION. Section 4. Effective date. [This act] is effective January 1, 2024.

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- END -