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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Grim and McNally

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SUMMARY

- Requires adults, families, and businesses that receive compensation from online platforms for video content that features one or more minors (“vlogging minors”) to keep certain records and compensate the minors for their contributions.
- Requires such compensation to be placed into a trust account for the minor’s benefit.
- Establishes minimum percentages of earnings to which vlogging minors are entitled.
- Requires adults, families, and businesses that receive compensation from online video content created and published by one or more minors (“publishing minors”) to transfer that compensation to the minor or place it in a trust account for the minor’s benefit.
- Requires online platforms to provide itemized statements to Ohioans receiving compensation generated by online video content that identify the videos generating that compensation and the account that published them.
- Permits individuals who were featured in monetized online video content as a minor to request that an online platform permanently delete any such content that features their name, likeness, or photograph.
- Permits a civil action by which vlogging minors and publishing minors may enforce the bill’s requirements.
- Exempts appearances in monetized online video content from Child Labor Laws.
- Names the bill the Kidfluencer Protection Act.

DETAILED ANALYSIS

Background

Online platforms such as YouTube, TikTok, Facebook, and Instagram have developed programs through which users can earn money by posting content that they have created –

including video content. Generally, these earnings are a portion of advertising revenue generated by the user's content. For example, many videos posted on YouTube have one or more advertisements that appear before, during, or alongside the video. Each of these advertisements generates a small amount of revenue for the platform, generally only a fraction of a cent. However, if that video is viewed thousands or millions of times, that revenue can become hundreds or thousands of dollars per video. Additionally, advertising revenue can be supplemented by revenue earned through subscriptions, memberships, digital purchases, or donations made by other users.

To incentivize users to continue creating content which can be monetized, these platforms offer different forms of revenue sharing. This generally happens in one of two ways:

- The platform divides the approximate advertising revenue generated by cumulative views for that piece of content between itself and the creator or owner of the content;
- The platform sets aside a large, predetermined pool of money and, periodically, evaluates the cumulative views generated by content or qualified users. The pool of money is then divided proportionally among the users according to their portion of the total views during that period.¹

Most platforms require users to be at least 18 years old to participate in any revenue sharing or compensation programs. However, not every platform has such an agent limit for posting content. And in cases where compensation is disbursed through secondary linked accounts, it is possible for an adult to link an account and receive compensation generated by content created or published by a minor.²

Online platforms do not account for persons other than the account owner who appear in monetized content. Instead, compensation is only directed to the owner of the account, regardless of whether other individuals appear in these videos. Notably, parents can publish and receive significant compensation for monetized content that features or relies on their children or other minors. The minors featured in the content, who may even be the primary focus of the content (such as toy review videos or family vlogs) are not currently guaranteed compensation.

¹ [How Much Does YouTube Pay Per View?](#), which may be accessed by conducting a keyword "YouTube pay per view" search on MUO's website: [makeuseof.com](#); [How to get paid on TikTok](#), which may be accessed by conducting a keyword "paid on TikTok" search on Mashable's website: [mashable.com](#).

² [Eligibility requirements for ads on Facebook Reels](#), which may be accessed by conducting a keyword "eligibility ads Reels" search on Meta's Business Help Center website: [facebook.com/business/help>About badges](#), which may be accessed by conducting a keyword "badges" search on Instagram's Help website: [help.instagram.com](#); [Virtual Items Policy](#), which may be accessed on TikTok's website: [tiktok.com](#); [Receive a Tip on TikTok](#), which may be accessed by navigating to the "Monetize on TikTok" link on TikTok's support website: [support.tiktok.com](#); [Eligibility requirements for AdSense](#), which may be accessed by navigating to the "Before you sign up" link on Google's AdSense Support website: [support.google.com/adsense](#).

Vlogger recordkeeping and compensation requirements

The bill requires vloggers whose “**vlog**” (i.e., video content shared on an online platform in exchange for compensation) includes one or more vlogging minors to (1) maintain and share certain records, and (2) compensate the vlogging minors for their contributions.

Persons subject to requirements

The bill’s recordkeeping and compensation requirements apply to “**vloggers**,” which the bill defines as an individual or family that resides in Ohio and creates video content that is published as a vlog. The term includes any proprietorship, partnership, company, or other corporate entity assuming the name or identity of a particular individual or family for the purposes of the vlog. “Vlogger” does *not* include any person who is a minor.

“**Family**” is defined as a group of persons related by blood or marriage, including civil partnerships, or whose close relationships with each other is considered equivalent to a family relationship by the individuals.³

Persons eligible for protections

The bill’s protections apply to “**vlogging minors**,” meaning, a natural person who meets all of the following criteria during a calendar year:

- The person was a minor at any point in the calendar year;
- The person’s likeness, name, or photograph is included in at least 30% of a vlogger’s compensated video content published within a 30-day period during the calendar year. Content percentage is measured by the percentage of time the likeness, name, or photograph of the person visually appears in, or is the subject of an oral narrative included in, a video in comparison to the total length of the video.
- The person’s likeness, name, or photograph is included in videos published in the calendar year in question for which a vlogger received compensation equal to or greater than one-tenth of one cent per view.⁴

Records

The bill requires any vlogger whose vlogs feature a vlogging minor to maintain the following records for each calendar year:

- The name and documented proof of age of each vlogging minor featured;
- The number of vlogs that feature a vlogging minor that generated compensation;
- The total number of minutes each vlogging minor was featured in vlogs;

³ R.C. 4109.01(G) and (Q).

⁴ R.C. 4109.01(S).

- The dollar amount deposited into a trust account for the benefit of each such vlogging minor (see “**Compensation**,” below).

The vlogger must provide this information to each vlogging minor featured in their vlogs annually, no later than March 1.⁵

Compensation

The bill requires any vlogger whose vlogs feature one or more vlogging minors to compensate those minors by setting aside certain earnings in a trust account no later than March 1 of each year.⁶

If there is only one vlogging minor featured in a vlog, then the vlogger must set aside at least the minimum contribution for that minor. Under the bill, the “**minimum contribution**” means one-half of the percentage of time that the vlogging minor’s likeness, name, or photograph is featured in a vlog, multiplied by the gross earnings for that vlog in the calendar year.⁷ For example, if a vlogging minor is featured for 15 minutes in a 30-minute vlog and the vlog generates \$1,000 during that calendar year, then the vlogging minor was featured for 50% of the vlog and the minimum contribution for that specific vlog would be \$250 (one-half of 50%, multiplied by \$1,000).

If multiple vlogging minors appear in a vlog, the same formula is used to calculate the collective compensation, but it considers the total amount of time that *any* vlogging minors are featured. From there, the minimum contribution is calculated for the vlog. Regardless of the difference in time each vlogging minor was featured, this minimum contribution is then divided equally between all vlogging minors featured in that vlog, and must be deposited into a separate trust account for each.⁸

So if, using the example above, three vlogging minors appear in the vlog, the percentage is based on how much time *any* of them are featured. So if all three are featured together during the same 15 minutes during a 30-minute vlog, the percentage used will still be 50%. The calculation would then result in a \$250 minimum contribution which would be split evenly between all three vlogging minors. Conversely, if one vlogging minor is featured by themselves for 20 minutes, and the other two vlogging minors are featured together for the other 10 minutes, the percentage used would be 100% of the vlog. This would then result in a minimum contribution of \$500. This would then be split evenly between all three vlogging minors, regardless of the difference in time each vlogging minor was featured.

⁵ R.C. 4109.23.

⁶ R.C. 4109.231(B).

⁷ R.C. 4109.231(A) and (C)(1).

⁸ R.C. 4109.231(C)(2).

Trust account

A vlogger who is required to compensate a vlogging minor must annually deposit the proper compensation into a trust account for the benefit of the vlogging minor. The contents of the trust account must become available to the minor once they reach 18 years of age or a court declares them to be emancipated. The trust account may not be available to anyone besides the minor, and must be held by a bank, corporate fiduciary, or trust company. Furthermore, the trust account must comply with the relevant provisions of the Ohio Transfers to Minors Act.⁹

Enforcement

If a vlogger fails to properly keep and provide records, or to deposit compensation into a trust account for a vlogging minor, the bill permits the vlogging minor to bring a civil action to enforce the bill's requirements. If the minor prevails in a civil suit related to compensation, the bill permits the court to award actual damages, punitive damages, attorney's fees, and litigation costs.¹⁰

Compensation for publishing minors

In addition to the recordkeeping and compensation requirements for vlogs published by adults, families, and businesses, the bill also establishes requirements for the management of compensation generated by vlogs created and published by minors themselves. It requires adults who receive earnings generated by publishing minors to either transfer those earnings to the minor, or to place them in a trust account for that minor. The bill defines "**publishing minor**" as a minor who (1) resides in Ohio, (2) independently or together with one or more other minors, creates and publishes a vlog, and (3) retains control of the vlogging account used to publish that vlog.¹¹

Itemized statements

The bill requires the operator of any online platform which provides vlog compensation to provide itemized account statements to the account holder. The bill defines "**vlog compensation**" as funds disbursed by the operator of an online platform to a payment account in connection with a vlog created and published by a publishing minor. "Vlog compensation" includes disbursements based on advertising, revenue sharing, subscriptions, view counts, tips, memberships, or other similar metrics. An "**account holder**" is any person, family, proprietorship, partnership, or other corporate entity that owns or controls a payment account. "**Payment account**" means an account associated with an online platform to which both of the following apply:

- The account is associated with at least one vlogging account;

⁹ R.C. 4109.231(C), (D), and (E).

¹⁰ R.C. 4109.23(B) and 4109.231(F).

¹¹ R.C. 4109.01(L).

- The account holder, which may be the owner of an associated vlogging account or another person, may use the account to receive, manage, or transfer vlog compensation.

If the operator provides the vlog compensation to a payment account, it must provide an itemized statement to the account holder each time that compensation is disbursed. If the operator instead requires an account holder to initiate a withdrawal or to transfer funds in a payment account to a bank, trust company, or other corporate fiduciary, the bill requires the operator to provide the itemized statement to the account holder once every 30 days, so long as the payment account has accrued compensation during that 30-day period.¹²

The itemized statement must contain all of the following information:

- Identifying information for each vlog that has generated vlog compensation, such as the vlog's internet address or URL;
- The dollar amount of vlog compensation generated by each vlog;
- The account name and email address associated with the vlogging account that published each vlog that generated compensation;
- An indication that the operator of the online platform is providing the vlog compensation for the benefit of the vlogging account, even if the vlogging account and payment account share the same account name or email address.¹³

Compensation

The bill requires an account holder to set aside any compensation to which all of the following apply:

- Was generated in connection with one or more vlogs published by a publishing minor;
- Was disbursed for the benefit of a vlogging account belonging to a publishing minor;
- Was *not* generated by a vlog created or published by a vlogger.

In other words, a minor is entitled to any compensation generated by a vlog that the minor created and published if the online platform disburses that compensation to a payment account operated by an adult unaffiliated with the production or publishing of the vlog.¹⁴

The bill clarifies that a publishing minor is entitled to the vlog compensation described above if that minor controls the vlogging account and email address identified in the online platform operator's itemized statement. If two or more publishing minors collectively operate a vlogging account, each minor is entitled to an equal share of vlog compensation generated by

¹² R.C. 1349.10(C).

¹³ R.C. 1349.10(B).

¹⁴ R.C. 4109.232(A).

any vlog to which that minor contributed. However, if the vlogging account receives vlog compensation for a vlog to which only one publishing minor contributed, then that minor is entitled to the full amount of vlog compensation generated by that vlog, even if the vlogging account is shared with one or more additional publishing minors.¹⁵

Under the bill, an account holder must compensate a publishing minor by either transferring the funds to the minor in accordance with the Ohio Transfers to Minors Act, or by depositing the funds into a trust account which meets the same requirements as those described above, under “**Trust account.**”¹⁶

Additional requirements

Once a publishing minor turns 18 years old, the bill requires any account holder whose payment account receives vlog compensation from the publishing minor’s vlogs to do all of the following:

- Inform the publishing minor that the account holder’s payment account is still receiving vlog compensation from the minor’s vlogs;
- Permit the publishing minor to terminate the payment account’s association with the vlogging account;
- Inform the publishing minor that the account holder is no longer required to transfer earnings to the publishing minor.¹⁷

Enforcement

If an account holder knowingly or recklessly violates these provisions of the bill, a publishing minor may commence a civil action against the account holder to enforce the bill, but only once the publishing minor reaches 18 years of age. At that point, the publishing minor may commence the civil action within six months after turning 18, or within six months after discovering the violation of the bill’s provisions, whichever occurs later. If the minor prevails, the bill permits the court to award actual damages, punitive damages, attorney’s fees, and litigation costs.¹⁸

Removal of content featuring vlogging minors

The bill permits any adult or emancipated minor who previously qualified as a vlogging minor to request the permanent deletion of any vlog that includes their likeness, name, or photograph, so long as the platform on which the vlog is posted previously provided compensation to the vlogger who posted it. Upon receiving such a request from a qualifying

¹⁵ R.C. 4109.232(C).

¹⁶ R.C. 4109.232(B).

¹⁷ R.C. 4109.232(D).

¹⁸ R.C. 4109.232(F) and (G).

person, the bill requires the online platform to take all reasonable steps to comply with the request and delete the vlog.¹⁹

Child Labor Laws

The bill expressly excludes vlogging minors from the provisions of the Child Labor Law. A parent or other adult who may be classified as a vlogger is required to adhere to the requirements of the bill rather than the recordkeeping and employment requirements that typically apply to an employer of minors.²⁰

Kidfluencer Protection Act

The bill is named the Kidfluencer Protection Act.²¹

Other definitions

The bill also defines the following terms:

- **“Online platform”** means any public-facing website, web application, or digital application, including a mobile application. “Online platform” includes an advertising network, mobile operating system, search engine, electronic mail service, internet access service, or social media.
- **“Social media”** means a service, platform, or website where users communicate with one another free of charge and share media such as pictures, videos, music, and blogs.
- **“Corporate fiduciary”** means any of the following:
 - A trust company;
 - The trust department of a bank, savings bank, savings and loan association, or foreign banking corporation qualified and licensed under section 1119.02 of the Revised Code to conduct operations in this state connected to its banking business;
 - A national bank or federally chartered savings and loan association or savings bank that is authorized by the appropriate federal agency to accept and execute trusts and that has its principal place of business in this state;
 - Any person that is required to and has received a license to exercise trust powers under Ohio’s Trust Companies law.
- **“Vlogging account”** means any account, profile, or user that publishes vlogs to an online platform.

¹⁹ R.C. 4109.233.

²⁰ R.C. 4109.06(A)(12).

²¹ Section 3.

- **“Operator”** means any person, proprietorship, partnership, or other corporate entity that operates an online platform that disburses vlog compensation.²²

HISTORY

Action	Date
Introduced	01-10-24

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²² R.C. 4109.01.