

1 HOUSE BILL NO. 518
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the Senate Committee on General Laws and Technology
 4 on _____)
 5 (Patron Prior to Substitute—Delegate Martinez)

6 *A BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 60, consisting of sections*
 7 *numbered 59.1-614, 59.1-615, and 59.1-616, relating to streaming advertisement volume control; civil*
 8 *penalty.*

9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 60, consisting of**
 11 **sections numbered 59.1-614, 59.1-615, and 59.1-616, as follows:**

12 *CHAPTER 60.*

13 *STREAMING ADVERTISEMENT VOLUME CONTROL.*

14 **§ 59.1-614. Definitions.**

15 *As used in this chapter, unless the context requires a different meaning:*

16 *"Long-form content" means a film, show, or other video programming or video content that is the primary*
 17 *material a user of a video streaming service or social media video service consumes while using such service.*

18 *"Normalization" means adjusting the audio of short-form content by measuring and scaling the average*
 19 *loudness to match the target loudness of the accompanying long-form content distributed by a video*
 20 *streaming service, social media video service, or third-party advertising manager consistent with established*
 21 *industry standards such as Advanced Television Systems Committee Recommended Practice A/85,*
 22 *Techniques for Establishing and Maintaining Audio Loudness for Digital Television.*

23 *"Short-form content" means commercial advertising, promotional, and public service-related video*
 24 *programming or video content that is interspersed in long-form content on a video streaming service or*
 25 *social media video service.*

26 *"Social media video service" means an online platform that (i) is open to the public; (ii) allows a user to*
 27 *create an account; (iii) consists primarily of content that is user-generated and not preselected by the*
 28 *provider; and (iv) provides a landing page, main feed, or search function that presents the user with video*
 29 *content generated by other users.*

30 *"Third-party advertising manager" means an entity that manages the distribution of short-form content on*
 31 *a video streaming service or social media video service and can adjust the loudness of such content.*

32 *"Video programming" means programming by, or generally considered comparable to programming*

33 *provided by, a television broadcast station. "Video programming" does not include user-generated media.*

34 *"Video streaming service" means an online platform the primary purpose of which is to make video*
35 *programming available directly to consumers. "Video streaming service" does not include a television*
36 *broadcast station, cable operator, or other multichannel video programming distributor, an internet service*
37 *provider, a service that makes available video programming or video content without commercial*
38 *advertisements, or a website or application that does not make video programming available to consumers as*
39 *its primary purpose.*

40 **§ 59.1-615. Video streaming services; volume of commercial advertisements.**

41 *A. A video streaming service, social media video service, or third-party advertising manager that serves*
42 *consumers residing in the Commonwealth shall exercise reasonable care to normalize the audio of short-*
43 *form content so that such audio is not transmitted at a louder volume than the long-form content it*
44 *accompanies, consistent with the regulations adopted by the Federal Communications Commission pursuant*
45 *to the federal Commercial Advertisement Loudness Mitigation (CALM) Act (47 U.S.C. § 621) for television*
46 *broadcast stations, cable operators, and other multichannel video programming distributors. There shall be*
47 *a rebuttable presumption that a video streaming service, social media video service, or third-party*
48 *advertising manager that maintains processes to require that short-form content not be louder than the long-*
49 *form content it accompanies that are similar to those processes employed to comply with the CALM Act is*
50 *exercising reasonable care.*

51 *B. A video streaming service, social media video service, or third-party advertising manager that engages*
52 *in normalization shall be deemed in compliance with this chapter.*

53 *C. A video streaming service or social media video service that engages a third-party advertising*
54 *manager that solely controls the loudness of short-form content on such service shall not be liable under*
55 *subsection A for short-form content distributed by the third-party advertising manager on such service,*
56 *provided that such service enters into a written agreement with the third-party advertising manager that*
57 *requires the audio of short-form content distributed by the third-party advertising manager to be no louder*
58 *than the target loudness of the accompanying long-form content distributed by the video streaming service or*
59 *social media video service, consistent with established industry standards.*

60 **§ 59.1-616. Enforcement; civil penalties.**

61 *A. For purposes of this chapter, the distribution of a single identifiable segment of short-form content*
62 *within a 30-day period constitutes a violation of this chapter, regardless of how many individual consumers*
63 *receive a transmission of such content.*

64 *B. The Attorney General shall have exclusive authority to enforce the provisions of this chapter.*

65 *C. Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is*
66 *engaging in, or is about to engage in any violation of this chapter, the Attorney General is empowered to*
67 *issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil*
68 *investigative demands issued pursuant to this section.*

69 *D. The Attorney General may initiate an action in the name of the Commonwealth and may seek an*
70 *injunction to restrain any violations of this chapter and civil penalties of up to \$2,500 for each violation*
71 *under this chapter.*

72 *E. The Attorney General may recover reasonable expenses incurred in investigating and preparing the*
73 *case, including attorney fees, in any action initiated under this section.*

74 *F. Nothing in this chapter shall be construed as providing the basis for, or be subject to, a private right of*
75 *action for violations of this chapter or under any other law.*

76 **2. That the provisions of this act shall become effective on July 1, 2027.**