

SENATE BILL NO. 245

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY SENATOR BJORKMAN

Introduced: 2/19/24

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to obscene material filters for electronic devices used by minors; and**
2 **providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 45.50 is amended by adding a new section to read:

5 **Article 6A. Filters for Electronic Devices Used by Minors.**

6 **Sec. 45.50.860. Obscene material filter.** A manufacturer of a device activated

7 in the state shall ensure that the device

8 (1) contains a filter;

9 (2) determines the user's age upon activation;

10 (3) automatically activates the filter when the device determines the
11 user is a minor;

12 (4) allows a password to be created and used to deactivate and
13 reactivate the filter; and

14 (5) notifies the user of the device when the filter blocks the device

1 from accessing an Internet website.

2 **Sec. 45.50.865. Parental and attorney general cause of action.** (a) Except as
3 provided in (b) of this section, the manufacturer of a device that does not comply with
4 AS 45.50.860 is liable to the parent or guardian of a minor who accesses obscene
5 material on the device.

6 (b) A manufacturer is not liable if the manufacturer has made a good faith
7 effort to provide a device that, upon activation of the device in the state, automatically
8 enables a filter in accordance with AS 44.50.860.

9 (c) A person who is not a parent or guardian of a minor who disables a filter
10 on a device used by the minor is liable to the parent or guardian of the minor if the
11 minor accesses obscene material on the device.

12 (d) A parent or guardian may bring an action under this section in the superior
13 court. The court may award

14 (1) actual damages or, if the court finds that actual damages are
15 difficult to ascertain because of the nature of the injury, liquidated damages in the
16 amount of \$50,000 for each violation;

17 (2) punitive damages under AS 09.17.020;

18 (3) nominal damages; and

19 (4) other relief determined by the court to be appropriate.

20 (e) When the attorney general has reason to believe that a person has violated
21 AS 45.50.860 - 44.50.875, the attorney general may conduct an investigation. The
22 attorney general may issue subpoenas to require the attendance of witnesses or the
23 production of documents or other physical evidence, administer oaths, and conduct
24 hearings to aid the investigation. Service of an order or subpoena shall be made in the
25 same manner as a summons in a civil action in the superior court. The attorney general
26 may bring an action in the superior court for violation of AS 45.50.860 - 45.50.875.
27 The court may

28 (1) enjoin the person from violating AS 45.50.860 - 44.50.875;

29 (2) impose a civil penalty on the person of not more than \$5,000 for
30 each violation, not to exceed a total of \$50,000; for the purpose of this paragraph, a
31 manufacturer commits a separate violation for each device manufactured that does not

1 comply with AS 45.50.860;

2 (3) award reasonable costs to the attorney general, including expenses
3 and investigative costs; and

4 (4) order other appropriate relief.

5 **Sec. 45.50.870. Penalty.** A person who disables a filter on a device used by a
6 minor and is not the parent or guardian of the minor is guilty of

7 (1) a class B misdemeanor for the first offense, punishable by a fine of
8 not more than \$5,000 and a term of imprisonment of not more than 15 days; or

9 (2) a class A misdemeanor for a second or subsequent offense,
10 punishable by a fine of not more than \$50,000 and a term of imprisonment of not more
11 than one year.

12 **Sec. 45.50.875. Definitions.** In AS 45.50.860 - 45.50.875,

13 (1) "activate" means the process of powering on a device and
14 associating the device with a new user account;

15 (2) "device" means a tablet or smartphone;

16 (3) "filter" means software installed on a device that is capable of
17 preventing the device from accessing or displaying obscene material through an
18 Internet browser;

19 (4) "manufacturer" means a person that is engaged in the business of
20 manufacturing a device, holds the patents for the device, and does business in the
21 state;

22 (5) "minor" means an individual under 18 years of age who has not
23 had the disabilities of a minor removed as described in AS 09.55.590;

24 (6) "obscene material" means material that

25 (A) the average individual, applying contemporary community
26 standards, would find, when taken as a whole, appeals to prurient interest in
27 sex for individuals under 18 years of age;

28 (B) depicts the following actual or simulated conduct in a way
29 that is patently offensive to the prevailing standards in the adult community as
30 a whole with respect to what is suitable for individuals under 18 years of age:

31 (i) sexual penetration;

1 (ii) the lewd touching of a person's genitals, anus, or
2 female breast;

3 (iii) masturbation;

4 (iv) bestiality;

5 (v) the lewd exhibition of a person's genitals, anus, or
6 female breast; or

7 (vi) sexual masochism or sadism; and

8 (C) a reasonable person would find, taken as a whole, lacks
9 serious literary, artistic, educational, political, or scientific value for
10 individuals under 18 years of age;

11 (7) "password" means a string of characters or other secure method
12 used to enable, disable, modify, or uninstall a filter on a device;

13 (8) "smartphone" means a portable electronic device that combines a
14 cellular telephone with a handheld computer that typically provides Internet access,
15 data storage, and text and electronic mail capabilities;

16 (9) "tablet" means a portable electronic device that is equipped with a
17 touchscreen display and rechargeable battery, can be used to access the Internet, and
18 does not contain a built-in keyboard.

19 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 **APPLICABILITY.** This Act applies to devices, as that term is defined in
22 AS 45.50.875, added by sec. 1 of this Act, that are activated in the state on or after the
23 effective date of this Act.

24 * **Sec. 3.** This Act takes effect January 1, 2025.