

HB318 INTRODUCED



1 HB318
2 KHPBCAA-1
3 By Representatives Sells, Mooney, Stadthagen, Bracy
4 RFD: Judiciary
5 First Read: 20-Feb-25



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SYNOPSIS:

This bill would require manufacturers of certain Internet-enabled devices, including smartphones and tablets, to require that devices manufactured on or after January 1, 2027, contain a filter that is enabled during the activation of the device if the user is a minor, and only allow a user with a password to deactivate or reactivate the filter.

This bill would provide that a manufacturer of a device in violation of this act is subject to civil liability and provide for penalties.

A BILL
TO BE ENTITLED
AN ACT

Relating to consumer protection; to provide certain requirements for the use of a filter on certain Internet-enabled devices in this state; to provide certain requirements for the filter; and to authorize a civil action for a violation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the following terms have the following meanings:



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29 (1) ACTIVATE. The process of powering on a device and
30 associating it with a new or existing user account.

31 (2) DEVICE. A tablet or a smartphone manufactured on or
32 after January 1, 2027.

33 (3) FILTER. Software used on a device that is capable
34 of preventing the device from accessing or displaying
35 obscenity through Internet browsers or search engines owned
36 and controlled by the manufacturer via mobile data networks,
37 wired Internet networks, and wireless Internet networks.

38 (4) INTERNET. The global information system that is
39 logically linked together by a globally unique address space
40 based on the Internet protocol (IP), or its subsequent
41 extensions; that is able to support communications using the
42 transmission control protocol/Internet protocol (TCP/IP) suite
43 or its subsequent extensions, or other IP-compatible
44 protocols; and that provides, uses, or makes accessible,
45 either publicly or privately, high-level services layered on
46 communications and related infrastructure.

47 (5) MANUFACTURER. A person to which all of the
48 following apply:

49 a. Is engaged in the business of manufacturing a
50 device.

51 b. Holds the patents for the device it manufactures or
52 holds the patents for the operating system on a device.

53 c. Has a commercial designated registered agent in this
54 state.

55 (6) MINOR. An individual under 18 years of age who is
56 not emancipated, married, or a member of the United States



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57 Armed Forces.

58 (7) OBSCENITY. A visual depiction of sexually explicit
59 conduct, as defined under Section 13A-12-190, Code of Alabama
60 1975.

61 (8) OPERATING SYSTEM. Software that manages all of the
62 other application programs on a device.

63 (9) PASSWORD. A string of characters or other secure
64 method used to enable, deactivate, modify, or uninstall a
65 filter on a device.

66 (10) RETAILER. A person, other than a manufacturer,
67 that sells a device directly to consumers. The term includes
68 an employee of a retailer acting in the course and scope of
69 the employee's employment.

70 (11) SMARTPHONE. An electronic device that combines a
71 cell phone with a hand-held computer, typically offering
72 Internet access through a browser or search engine and that
73 typically has data storage, text, and email capabilities.

74 (12) TABLET. An Internet-ready device equipped with an
75 operating system, touchscreen display, and rechargeable
76 battery in a single, thin, flat package.

77 Section 2. Beginning on January 1, 2027, all devices
78 activated in the state must meet all of the following
79 requirements:

80 (1) Contain a filter.

81 (2) Determine the age of the user during activation and
82 account set-up.

83 (3) Set the filter to "on" for minor users.

84 (4) Allow a password to be established for the filter.



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85 (5) Notify the user of the device when the filter
86 blocks the device from accessing a website.

87 (6) Give the user with a password the opportunity to
88 deactivate and reactivate the filter.

89 Section 3. (a) Beginning January 1, 2027, a
90 manufacturer of a device shall be subject to civil liability
91 if all of the following occur:

92 (1) The device is activated in the state.

93 (2) The device does not, upon activation, enable a
94 filter that complies with the requirements described in
95 Section 2.

96 (3) A minor accesses material that is obscene on the
97 device.

98 (b) Notwithstanding subsection (a), this section does
99 not apply to a manufacturer that makes a good faith effort to
100 provide a device that, upon activation of the device in the
101 state, automatically enables a filter on the device that
102 complies with the requirements of Section 2.

103 (c) Nothing in this act shall be construed to create a
104 cause of action against the retailer of a device.

105 Section 4. With the exception of a minor's parent or
106 legal guardian, any person may be liable in a civil action for
107 enabling the password to remove the filter on a device in the
108 possession of the minor if the minor accesses content that is
109 obscene.

110 Section 5. (a) Whenever the Attorney General has reason
111 to believe that a person violated or is violating this act,
112 the Attorney General, acting in the public interest, may bring



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113 an action in the name of the state against the person as
114 follows:

115 (1) To enjoin any action that constitutes a violation
116 of this act by the issuance of a temporary restraining order
117 or preliminary or permanent injunction.

118 (2) To recover from the alleged violator a civil
119 penalty not to exceed five thousand dollars (\$5,000) per
120 violation, and not to exceed a total of fifty thousand dollars
121 (\$50,000) in aggregate, as determined by the court.

122 (3) To recover from the alleged violator the Attorney
123 General's reasonable expenses, investigative costs, and
124 attorney fees.

125 (4) To obtain other appropriate relief as provided for
126 under this act.

127 (b) The Attorney General, in addition to other powers
128 conferred by this act, may issue subpoenas to any person and
129 conduct hearings in aid of any investigation or inquiry.

130 (c) The Attorney General may seek the revocation of any
131 license or certificate authorizing a manufacturer to engage in
132 business in this state.

133 (d) For purposes of assessing a penalty under this
134 section, a manufacturer is considered to have committed a
135 separate violation for each device manufactured on or after
136 January 1, 2027, which violates Section 3.

137 Section 6. (a) Any parent or legal guardian of a minor
138 who accesses obscene content in violation of Section 2 may
139 bring a private cause of action in any court of competent
140 jurisdiction against a manufacturer who failed to comply with



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141 Section 2.

142 (b) A prevailing plaintiff may recover all of the
143 following:

144 (1) Actual damages or, in the discretion of the court
145 where actual damages are difficult to ascertain due to the
146 nature of the injury, liquidated damages in the amount of
147 fifty thousand dollars (\$50,000) for each violation.

148 (2) When a violation is found to be knowing and
149 willful, punitive damages in an amount determined by the
150 court.

151 (3) Nominal damages.

152 (4) Attorney fees.

153 (5) Any other relief as the court deems appropriate,
154 including court costs and expenses.

155 (c) Nothing in this section precludes the bringing of a
156 class action lawsuit against a manufacturer where the
157 manufacturer's conduct in violation of Section 2 is knowing
158 and willful.

159 (d) Any parent or legal guardian of a child may bring
160 an action in a court of competent jurisdiction against any
161 individual who is not the parent or legal guardian of the
162 child and who disables the filter from a device in the
163 possession of the child which results in the child's exposure
164 to obscene content.

165 Section 7. This act shall become effective on January
166 1, 2027.