

## HOUSE BILL No. 2319

By Representatives Garber, Donohoe, French, Helmer, Highland, Huebert, Rahjes, Rhiley, E. Smith, Thimesch, Thomas, Toplikar, Waggoner, Warfield, Wheeler and Williams

2-13

1 AN ACT concerning consumer protection; relating to unconscionable acts  
2 or practices; requiring technology protection measures on internet-  
3 accessible devices; enacting the human trafficking and child  
4 exploitation prevention act; establishing the human trafficking and  
5 child exploitation prevention grants fund.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. Sections 1 through 5, and amendments thereto, shall be  
9 known and may be cited as the human trafficking and child exploitation  
10 prevention act.

11 Sec. 2. As used in this act:

12 (a) "Child pornography" means the same as such term is defined in  
13 K.S.A. 2018 Supp. 75-2589, and amendments thereto.

14 (b) "Distributor" means any person who regularly engages in the sale,  
15 offer for sale or lease of products or services in this state that make content  
16 accessible on the internet.

17 (c) "Obscene" means the same as such term is defined in K.S.A. 2018  
18 Supp. 21-6401, and amendments thereto, and includes, but is not limited  
19 to:

20 (1) Child pornography;

21 (2) revenge pornography, as described in K.S.A. 2018 Supp. 21-  
22 6101(a)(8), and amendments thereto; and

23 (3) websites known to facilitate:

24 (A) The selling of sexual relations, as described in K.S.A. 2018 Supp.  
25 21-6419, and amendments thereto; and

26 (B) human trafficking, as described in K.S.A. 2018 Supp. 21-5426,  
27 and amendments thereto.

28 (d) "Technology protection measure" means any computer technology  
29 or other process that blocks or filters online access to obscene content.

30 Sec. 3. (a) Except as provided in subsection (d), a distributor shall not  
31 manufacture, sell, offer for sale, lease or distribute to a consumer any  
32 product or service that makes content accessible on the internet, unless  
33 such product or service contains an active and operating technology  
34 protection measure.

1 (b) A distributor shall:

2 (1) Regularly make available to consumers updates to the technology  
3 protection measure to ensure that the technology protection measure is  
4 sufficiently blocking access to obscene content;

5 (2) maintain a website or telephone line that consumers can use to  
6 report:

7 (A) Obscene content that is not blocked by the technology protection  
8 measure; and

9 (B) content that is not obscene that is blocked by the technology  
10 protection measure;

11 (3) have in place procedures for evaluating reports made pursuant to  
12 subparagraph (B) and, if necessary, updating the technology protection  
13 measure within five days; and

14 (4) report any child pornography reported to such distributor in  
15 accordance with 18 U.S.C. § 2258A.

16 (c) A distributor shall not:

17 (1) Block access to any website that provides a means for users of  
18 such website to report obscene content and that has procedures for  
19 evaluating such user reports and removing obscene content;

20 (2) block access to any website that operates as a search engine; or

21 (3) provide the source code for a technology protection measure in  
22 order to allow the deactivation of such measure without complying with  
23 the provisions of subsection (d).

24 (d) A distributor shall deactivate the technology protection measure  
25 for a product or service if the consumer who purchased or leased the  
26 product or service:

27 (1) Requests that the technology protection measure be deactivated;

28 (2) presents identification verifying that the consumer is at least 18  
29 years of age;

30 (3) acknowledges receipt of a written warning regarding the potential  
31 danger of deactivating the technology protection measure; and

32 (4) pays a one-time deactivation fee of \$20.

33 (e) Quarterly, each distributor shall remit all one-time deactivation  
34 fees paid pursuant to subsection (d) to the attorney general. Nothing in this  
35 section shall prohibit a distributor from charging any fee in addition to the  
36 one-time deactivation fee. Any additional fees may be retained by the  
37 distributor to assist in defraying the costs for maintaining and operating the  
38 technology protection measure.

39 (f) If the technology protection measure blocks access to a website  
40 that is not displaying obscene material and such block is reported through  
41 the distributor's report mechanism, the distributor shall unblock access to  
42 the website within a reasonable time, but in no event more than five  
43 business days after the block was first reported. A consumer may seek

1 judicial relief to unblock access to a website that is not displaying obscene  
2 content but was blocked by the technology protection measure. In any  
3 action brought pursuant to this subsection, the prevailing party may seek  
4 reasonable attorney fees, court costs and such other forms of relief as the  
5 court deems appropriate.

6 (g) If a distributor is unresponsive to a report of a website displaying  
7 obscene material while the technology protection measure is active, the  
8 attorney general or a consumer who was exposed to such content may  
9 bring an action against the distributor for damages of up to \$500 for each  
10 website displaying obscene material that was reported but not  
11 subsequently blocked. In any action brought pursuant to this subsection,  
12 the prevailing party may seek reasonable attorney fees, court costs and  
13 such other forms of relief as the court deems appropriate. It shall be an  
14 affirmative defense in any such action that the dissemination of the  
15 obscene content was limited to institutions or organizations having  
16 scientific, educational or other similar justifications for displaying such  
17 content.

18 Sec. 4. (a) There is hereby established in the state treasury the human  
19 trafficking and child exploitation prevention grants fund to be  
20 administered by the attorney general. The attorney general shall remit all  
21 moneys collected pursuant to section 3(e), and amendments thereto, to the  
22 state treasurer in accordance with K.S.A. 75-4215, and amendments  
23 thereto. Upon receipt of each such remittance, the state treasurer shall  
24 deposit the entire amount in the state treasury to the credit of the human  
25 trafficking and child exploitation prevention grants fund.

26 (b) All moneys credited to the human trafficking and child  
27 exploitation prevention grants fund shall be used for the purpose of  
28 awarding grants to any individual, governmental agency or non-profit  
29 organization that the attorney general determines is working to uphold  
30 community standards of decency, strengthen families and develop, expand  
31 or strengthen programs for victims of human trafficking and child  
32 exploitation. Such grants may be made for the following:

- 33 (1) Rape-kit testing;
- 34 (2) physical and mental health services;
- 35 (3) temporary and permanent housing placement;
- 36 (4) employment, work placement, education or job training;
- 37 (5) prevention of and protection from human trafficking, domestic  
38 violence, prostitution, child abuse and rape through training of first  
39 responders and increasing public awareness;
- 40 (6) compensation for shelters for victims of human trafficking,  
41 domestic violence, prostitution, child abuse and rape;
- 42 (7) family counseling; and
- 43 (8) investigation and prosecution by law enforcement agencies of

1 human trafficking, domestic violence, prostitution, child abuse and rape.

2 Sec. 5. (a) This act shall be a part of and supplemental to the Kansas  
3 consumer protection act.

4 (b) Any violation of this act shall be an unconscionable act or practice  
5 under the Kansas consumer protection act and shall be subject to any and  
6 all of the remedies and enforcement provisions of the Kansas consumer  
7 protection act.

8 (c) The attorney general shall remit all penalties and fines collected  
9 pursuant to this section to the state treasurer in accordance with the  
10 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
11 each such remittance, the state treasurer shall deposit the entire amount in  
12 the state treasury to the credit of the human trafficking and child  
13 exploitation prevention grants fund.

14 (d) The provisions of this act shall not apply to the sale of a product  
15 or service manufactured or sold prior to July 1, 2019.

16 Sec. 6. This act shall take effect and be in force from and after its  
17 publication in the statute book.