

SENATE BILL 2280

By Pody

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3, Part 30 and Title 47, Chapter 18, relative to the prevention of human trafficking.

WHEREAS, the State has a compelling interest in protecting the public health and protecting minors from being exposed to obscenity; and

WHEREAS, studies have shown that pornography is a public hazard, leading to a broad spectrum of well-documented individual impacts and societal harm; and

WHEREAS, easily accessible pornography on devices that connect to the internet is impacting the demand for human trafficking and prostitution; and

WHEREAS, the General Assembly has a compelling interest in imposing a narrowly tailored, common sense filter system that combats the growing epidemic of dissemination of obscene content and the resulting demand for human trafficking while balancing the consumer's fundamental right to regulate the consumer's own mental health; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Human Trafficking Prevention Act".

SECTION 2. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following as a new part:

**47-18-3001.** For purposes of this part:

(1) "Device" means a device that allows a user to access the internet and view or download content from the internet;

(2) "Filtering capability" means the ability to render inaccessible certain digital content or websites based upon parameters or information programmed into software and firmware; and

(3) "Supplier" means any business, manufacturer, wholesaler, or individual who makes the initial sale, gift, or transfer of a new device to a consumer.

**47-18-3002.**

(a) Except as provided in subsection (c), a supplier shall not sell, rent, give away, or otherwise transfer a device to a consumer in this state unless the device contains active filtering capability that makes inaccessible any:

(1) Content that is obscene, as defined in § 39-17-901;

(2) Images that constitute unlawful exposure under § 39-17-318;

(3) Material, as defined in § 39-17-1002, that depicts sexual exploitation of a minor;

(4) Website that promotes a human trafficking offense, as defined in § 39-13-314; or

(5) Website that promotes any prostitution offense defined in § 39-13-512.

(b) A supplier shall make available to device consumers on an ongoing basis all updates or upgrades to the filtering capability of the device necessary to maintain compliance with the filtering requirements of subsection (a).

(c) A supplier may opt-out of the requirement to provide filtering capability, and shall pay a fee of twenty dollars (\$20.00) for each device without active filtering capability installed that the supplier sells, rents, gives away, or otherwise transfers to a consumer in this state. The fee shall be remitted in the same manner as described in § 47-18-3005.

**47-18-3003.**

(a) A supplier shall deactivate the filtering capability installed on a device if a consumer:

(1) Requests in writing that the filtering software be disabled;

(2) Presents identification to verify that the consumer is eighteen (18) years of age or older;

(3) Acknowledges in writing the receipt of a written warning regarding the potential danger of deactivating the filtering capability; and

(4) Pays a one-time deactivation fee of twenty dollars (\$20.00) to the supplier, which the supplier shall remit according to § 47-18-3005.

(b) Nothing in this section prohibits a supplier from charging the consumer a reasonable fee-for-service to perform the work necessary to deactivate the filtering capability on a consumer's device upon a request made in accordance with subsection (a).

**47-18-3004.**

(a) A supplier shall provide to a consumer information regarding a call center or reporting website that consumers may use to report, regarding the effectiveness of the filtering capability of a device regarding content described in § 47-18-3002(a), that:

(1) The filtering capability of a device excludes internet content that is lawful under § 47-18-3002(a); or

(2) The filtering capability of a device fails to exclude internet content that is unlawful under § 47-18-3002(a).

(b) A supplier shall investigate all consumer reports made under subsection (a) and within five (5) days remedy any filtering errors caused by the filtering capability of devices provided by the supplier.

(c) If a supplier fails to comply with subsection (b), the consumer or group of consumers may seek injunctive relief to enforce this section.

**47-18-3005.**

Each quarter, each supplier that is liable for payment of an opt-out fee under § 47-18-3002(c) or a filter deactivation fee under § 47-18-3003(a) shall remit the fees to the department of revenue in a manner prescribed by the commissioner for deposit in the fund created by § 47-18-3006.

**47-18-3006.**

(a) There is created a special account in the state treasury to be known as the "human trafficking prevention and victim assistance grant fund".

(b) Moneys shall be deposited in the fund as provided in § 47-18-3005.

(c) Moneys in the fund shall be made available to the human trafficking advisory council for the purpose of providing grants. The grants shall be limited to the following:

(1) Fifty percent (50%) shall be awarded to faith-based groups, nonprofit organizations, and other non-governmental organizations to:

(A) Develop, expand, or strengthen programs for victims of human trafficking and child exploitation. The programs may include any of the following:

(i) Health and mental health services;

(ii) Temporary and permanent housing placement; and

(iii) Employment placement, education, and training;

(B) Ensure prevention of human trafficking, including increasing public awareness; and

(C) Ensure protection of victims of human trafficking, including training of first responders; and

(2) Fifty percent (50%) shall be awarded to local law enforcement agencies and offices of the district attorneys general to support human trafficking enforcement and prosecution programs and initiatives.

(d) Moneys in the funds may be invested by the state treasurer in accordance with § 9-4-602.

(e) Notwithstanding any law to the contrary, interest accruing on investments and deposits of the fund shall be credited to the fund, shall not revert to the general fund, and shall be carried forward into the subsequent fiscal year.

(f) Any balance in the fund remaining unexpended at the end of a fiscal year shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

**47-18-3007.**

(a) A violation of § 47-18-3002 constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter. Any violation of § 47-18-3002 shall constitute an unfair or deceptive act or practice affecting trade or commerce and be subject to the penalties and remedies provided in the Tennessee Consumer Protection Act of 1977, in addition to the penalties and remedies in this part.

(b) The attorney general and reporter shall have all of the investigative and enforcement authority that the attorney general and reporter has under the Tennessee Consumer Protection Act of 1977 relating to alleged violations of this part. The attorney general and reporter may institute any proceedings involving alleged violations of this part in Davidson County circuit or chancery court or any other venue otherwise permitted by law.

(c) No costs of any kind or nature shall be taxed against the attorney general and reporter or the state in actions commenced under this part.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2019, the public welfare requiring it.