

SENATE BILL 2354

By Haile

AN ACT to amend Tennessee Code Annotated, Title 47,
Chapter 18, relative to devices capable of
accessing the internet.

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

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding
the following as a new part:

47-18-3201. Short title.

This part is known and may be cited as the "Protecting Minors from Unfiltered
Devices Act."

47-18-3202. Part definitions.

As used in this part:

- (1) "Activate" means the process of powering on a device and
associating the device with a new user account;
- (2) "Device" means a tablet or a smart phone sold in this state and
manufactured on or after the effective date of this act;
- (3) "Filter" means software installed on a device that is capable of
preventing the device from accessing or displaying material that is harmful to
minors through the internet or applications owned and controlled by the
manufacturer and installed on the device;
- (4) "Harmful to minors" has the same meaning as defined in § 39-17-901;
- (5) "Internet" means the global information system that:
 - (A) Is logically linked together by a globally unique address space
based on the internet protocol (IP), or its subsequent extensions;

(B) Is able to support communications using the Transmission Control Protocol/Internet Protocol (TCP/IP) suite, or its subsequent extensions, or other IP-compatible protocols; and

(C) Provides, uses, or makes accessible, either publicly or privately, high-level services layered on communications and related infrastructure;

(6) "Manufacturer" means a person that:

(A) Is engaged in the business of manufacturing a device; and

(B) Has a registered agent who is authorized to receive service of process or notice required or permitted by law to be served on the person;

(7) "Member of the armed forces" means a member of the United States armed forces or a member of a reserve or Tennessee national guard unit who is in, or was called into, active service or active military service of the United States, as defined in § 58-1-102;

(8) "Minor" means an individual under eighteen (18) years of age who is not emancipated, married, or a member of the armed forces;

(9) "Person" means a natural person, consumer, governmental agency, partnership, corporation, trust, estate, incorporated or unincorporated association, and other legal or commercial entity;

(10) "Smart phone" means an electronic device that combines a cellular telephone with a hand-held computer, typically offering internet access, data storage, and text and email capabilities; and

(11) "Tablet" means a mobile device that:

(A) Is equipped with a mobile operating system, touchscreen display, and rechargeable battery; and

(B) Has the ability to support access to a cellular network.

47-18-3203. Filter required.

(a) On and after the effective date of this act, a manufacturer violates this part if a device manufactured by the manufacturer is activated in this state and the device does not automatically enable a filter that:

(1) Prevents the user from accessing or downloading material that is harmful to minors on:

(A) Mobile data networks;

(B) Applications owned and controlled by the manufacturer;

(C) Wired internet networks; and

(D) Wireless internet networks;

(2) Notifies the user of the device when the filter blocks the device from downloading an application or accessing a website;

(3) Provides a user who has a passcode the opportunity to unblock a filtered application or website; and

(4) Reasonably precludes a user, other than a user who has a passcode, the opportunity to deactivate, modify, or uninstall the filter.

(b) On and after the effective date of this act, a manufacturer violates this part if:

(1) A device manufactured by the manufacturer is activated in this state;

(2) The device does not, upon activation in this state, enable a filter that complies with subsection (a); and

(3) A minor accesses material that is harmful to minors on the device.

(c) This part does not affect a private cause of action existing under other law, including contract.

(d) Notwithstanding subsections (a) and (b), this section does not apply to a manufacturer that makes a good faith effort to provide a device that, upon activation of the device in this state, automatically enables a generally accepted and commercially reasonable method of filtration in accordance with this part and industry standards.

47-18-3204. Violations – Investigative and enforcement authority – Costs.

(a) A violation of § 47-18-3203(a) or (b) constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter. A violation of § 47-18-3203(a) or (b) constitutes an unfair or deceptive act or practice affecting trade or commerce and is subject to the penalties and remedies provided in the Tennessee Consumer Protection Act of 1977, in addition to other penalties and remedies available under law.

(b) For the purpose of assessing a penalty under subsection (a), a manufacturer is considered to have committed a separate violation for each device manufactured on or after January 1, 2023, and activated in this state on which:

(1) A filter is not automatically enabled; and

(2) A minor encounters material harmful to minors.

(c) The attorney general and reporter has 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 proceedings involving alleged violations of this part in Davidson County circuit or chancery court or another venue otherwise permitted by law.

(d) A court shall not assess costs against the attorney general and reporter or the state in actions commenced under this part.

SECTION 2. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following as a new subdivision:

() Violating § 47-18-3203;

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

SECTION 4. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 5. This act takes effect January 1, 2023, the public welfare requiring it.