

By: White

H.B. No. 2266

A BILL TO BE ENTITLED

AN ACT

relating to requiring certain retailers to ensure that certain products sold or leased by the retailers contain a digital blocking capability that renders obscene material inaccessible; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. RETAILERS REQUIRED TO ENSURE CERTAIN PRODUCTS CONTAIN DIGITAL BLOCKING CAPABILITY

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "Consumer" means an individual who purchases or leases for personal, family, or household purposes a product that makes content accessible on the Internet.

(2) "Obscene" has the meaning assigned by Section 43.21, Penal Code.

(3) "Retailer" means a person who is engaged in the business of selling or leasing directly to a consumer a product that makes content accessible on the Internet.

Sec. 113.002. DIGITAL BLOCKING CAPABILITY. (a) Except as provided by Subsection (d), a retailer may not sell or lease to a consumer a product that makes content accessible on the Internet unless the product contains an active and operating digital blocking capability that renders obscene material inaccessible.

1 (b) The digital blocking capability:

2 (1) must block access to child pornography, revenge
3 pornography, and websites known to facilitate prostitution and
4 human trafficking;

5 (2) may not block access to social media websites that
6 provide a means for the websites' users to report obscene material
7 and have in place procedures for evaluating those reports and
8 removing obscene material; and

9 (3) must be distributed by an entity that:

10 (A) regularly makes available to consumers
11 updates to the digital blocking capability's filters to ensure the
12 filters' effectiveness in blocking access to obscene material;

13 (B) maintains a website or telephone line that
14 consumers can use to report:

15 (i) obscene material that is not blocked by
16 the digital blocking capability's filters; and

17 (ii) material that is not obscene that is
18 blocked by the digital blocking capability's filters; and

19 (C) has in place procedures for evaluating
20 reports made under Paragraph (B) and, if necessary, updating the
21 digital blocking capability's filters in a reasonable amount of
22 time.

23 (c) Except as provided by Subsection (d), a retailer may not
24 provide to a consumer methods, source code, or other operating
25 instructions for deactivating a product's digital blocking
26 capability.

27 (d) A retailer may deactivate a product's digital blocking

1 capability if the consumer who purchased or leased the product:

2 (1) requests in writing that the digital blocking
3 capability be deactivated;

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

6 (3) acknowledges a written warning regarding the
7 potential danger of deactivating the digital blocking capability;
8 and

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

10 Sec. 113.003. REMISSION AND USE OF FEE. (a) Each quarter,
11 a retailer shall remit the fee collected under Section
12 113.002(d)(4) to the comptroller in the manner prescribed by the
13 comptroller.

14 (b) The comptroller shall deposit the fee to the credit of
15 the sexual assault program fund established by Section 420.008,
16 Government Code. Money deposited to that fund may be used only by:

17 (1) the attorney general for grants:

18 (A) to faith-based groups, independent school
19 districts, and community action organizations for programs for
20 victims of human trafficking; and

21 (B) to prevent sex trafficking and to provide
22 services for victims of sex trafficking;

23 (2) the Department of State Health Services for grants
24 to support programs assisting victims of human trafficking;

25 (3) the office of the governor for grants to support
26 human trafficking prosecution projects; and

27 (4) any state agency or organization for the purpose

1 of conducting human trafficking enforcement programs.

2 Sec. 113.004. INJUNCTION. (a) If it appears that a
3 retailer is in violation of this chapter, the attorney general, a
4 district attorney, or a county attorney may institute an action of
5 injunctive relief to restrain the retailer from continuing the
6 violation.

7 (b) The attorney general, a district attorney, or a county
8 attorney may recover reasonable expenses incurred in obtaining
9 injunctive relief under this section, including reasonable
10 attorney's fees.

11 Sec. 113.005. CIVIL ACTION. A consumer injured by a
12 violation of this chapter may bring an action for recovery of
13 damages. The damages awarded may not be less than the amount the
14 consumer paid the retailer to purchase or lease the product with
15 respect to which the violation occurred, plus reasonable attorney's
16 fees.

17 Sec. 113.006. CRIMINAL OFFENSE. (a) A retailer commits an
18 offense if the retailer violates this chapter.

19 (b) An offense under this section is:

20 (1) a Class A misdemeanor if the consumer is younger
21 than 18 years of age; and

22 (2) a Class C misdemeanor if the consumer is at least
23 18 years of age.

24 (c) With the consent of the appropriate local district or
25 county attorney, the attorney general has concurrent jurisdiction
26 with that consenting local prosecutor to prosecute an offense under
27 this section.

1 SECTION 2. This Act takes effect September 1, 2017.