

BILL ANALYSIS

Senate Research Center
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S.B. 417
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Protecting our children from harm is our primary duty as a parent. Each electronic device may be used to access explicit material, including devices used by minors. There are currently no requirements for electronic device manufacturers to provide an application or firmware on their devices to filter content to prevent minors from accessing explicit material.

S.B. 417 seeks to address the problem by requiring the automatic installation of content filters on electronic devices and that the device filters be affirmatively set to "ON" by the manufacturer. The electronic device filters would allow a parent or guardian the ability to set a content filter to prevent their child from accessing, downloading, or displaying explicit material through mobile data networks, Internet networks, or software applications.

As proposed, S.B. 417 amends current law relating to electronic device filters for certain explicit material, creates a criminal offense, and provides a civil penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 5, Business and Commerce Code, by adding Chapter 121, as follows:

CHAPTER 121. ELECTRONIC DEVICE FILTERS

SUBCHAPTER A. ELECTRONIC DEVICE FILTER REQUIREMENTS

Sec. 121.001. DEFINITIONS. Defines "activate," "electronic device," "explicit material," "filter," "intimate parts," "manufacturer," "minor," "sexual conduct," "simulated," and "visual material."

Sec. 121.002. ELECTRONIC DEVICE FILTER REQUIRED. (a) Requires a manufacturer to automatically enable a filter on an electronic device that is activated in this state.

(b) Requires that a filter described in Subsection (a), when enabled:

(1) prevent a minor user from accessing, downloading, or displaying explicit material through the use of:

(A) a mobile data network;

(B) an Internet network, including Wi-Fi; or

(C) a software application owned and controlled by the manufacturer of the electronic device;

- (2) notify the user of the electronic device when the filter prevents the device from accessing or displaying explicit material;
- (3) allow the user of the electronic device to circumvent the filter by entering a password or access code; and
- (4) reasonably prevent a user of the electronic device from circumventing, modifying, removing, or uninstalling the filter without entering a password or access code.

Sec. 121.003. VIOLATION. (a) Provides that a manufacturer violates this chapter if:

- (1) the manufacturer manufactures an electronic device that is activated in this state;
- (2) the device does not automatically enable a filter under Section 121.002; and
- (3) a minor user accesses explicit material on the device.

(b) Provides that a person violates this chapter if:

- (1) the person circumvents, modifies, removes, or uninstalls a filter under Section 121.002 on the electronic device of a minor user;
- (2) the person is not the parent or legal guardian of the minor user;
- (3) the person takes the action under Subdivision (1):
 - (A) without permission from the parent or legal guardian of the minor user; and
 - (B) with knowledge that circumventing, modifying, removing, or uninstalling the filter may result in the minor user accessing explicit material; and
- (4) the minor user accesses explicit material on the device.

(c) Provides that a manufacturer does not violate this chapter, notwithstanding Subsection (a), if the manufacturer makes a good faith effort to provide an electronic device that automatically enables a filter under Section 121.002.

SUBCHAPTER B. ENFORCEMENT

Sec. 121.051. CIVIL PENALTY. (a) Provides that a manufacturer who violates Section 121.003(a) is liable to this state for a civil penalty in an amount not to exceed \$30,000 for each violation.

- (b) Authorizes the attorney general to bring an action in the name of the state to recover a civil penalty under this section. Authorizes the attorney general to recover attorney's fees and costs incurred in bringing an action under this section.
- (c) Authorizes the action to be brought in a district court in Travis County or a county in which any part of the violation or threatened violation occurs.
- (d) Requires the attorney general to deposit a civil penalty collected under this section in the state treasury to the credit of the general revenue fund.

Sec. 121.052. CIVIL ACTION AGAINST MANUFACTURER. (a) Authorizes a parent or guardian of a minor user of an electronic device who accesses explicit material on the device due to the actions of a manufacturer under Section 121.003(b) to bring a civil action against the manufacturer of the device.

(b) Requires a parent or guardian who brings an action under this section to provide written notice of the action to the attorney general.

(c) Entitles a parent or guardian who prevails in an action under this section, notwithstanding Sections 41.003 (Standards for Recovery of Exemplary Damages) and 41.004 (Factors Precluding Recovery), Civil Practice and Remedies Code, to recover:

(1) damages in the amount of \$10,000;

(2) court costs; and

(3) attorney's fees.

(d) Authorizes a court to certify an action brought against a manufacturer under this section as a class action.

Sec. 121.053. CIVIL ACTION AGAINST NONPARENT VIOLATOR. (a) Defines "nonparent violator."

(b) Authorizes a parent or guardian of a minor who accesses explicit material on an electronic device due to the actions of a nonparent violator under Section 121.003(b) to bring a civil action against the nonparent violator.

(c) Entitles a parent or guardian who prevails in an action under this section, notwithstanding Sections 41.003 and 41.004, Civil Practice and Remedies Code, to recover:

(1) damages in the amount of \$1,000;

(2) court costs; and

(3) attorney's fees.

(d) Provides that it shall be a defense in an action under this section that the nonparent violator acted at the request of the parent or guardian of the minor user who accessed explicit material.

Sec. 121.054. OTHER ACTION BY ATTORNEY GENERAL. (a) Authorizes the attorney general, in addition to collecting the penalty under Section 121.051, to bring a civil action to enjoin a manufacturer from further violating this chapter.

(b) Authorizes the attorney general to join an action for which the attorney general receives notice under Section 121.052(b).

(c) Requires the court to permit the attorney general to join an action in accordance with Subsection (b), not later than the 30th day after the date the attorney general receives notice of the action.

(d) Authorizes the attorney general to seek remedies provided under Subsection (a) and Section 12.051, if the attorney general joins an action in accordance with Subsection (b).

Sec. 121.055. OFFENSE; CRIMINAL PENALTY. (a) Defines "nonparent violator."

(b) Provides that a nonparent violator who violates 121.003(b) commits an offense.

(c) Provides that an offense under this section is a Class A misdemeanor for the first offense and a state jail felony for a second or subsequent offense.

SECTION 2. Effective date: September 1, 2023.