

## **BILL ANALYSIS**

Senate Research Center  
88R16108 MLH-F

C.S.S.B. 417  
By: Paxton  
State Affairs  
4/12/2023  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Minors are gaining access to pornography, which is proven to be harmful to brain development and can fuel addiction. Compared to adults, minors are more susceptible to addiction and developmental effects on the brain. According to the National Center on Child Exploitation, pornography can potentially be biologically addictive, desensitize brain reward circuits, increase conditioned responses, and weaken brain function.

In 2020, 34 percent of 13 to 14-year-olds said that it is normal for kids to share self-generated nude photos with others. Sexting involving minors is legally classified as child sexual abuse material or child pornography. Currently, one-third of web pages featuring sexual images of children are self-generated.

As of January 1, 2023, when Louisiana's age verification law went into effect, over a dozen states have introduced age verification legislation. Arkansas, Virginia, Florida, South Dakota, West Virginia, Kansas, and Mississippi have introduced virtually identical legislation to Louisiana. Oregon, South Carolina, Minnesota, Utah, Oklahoma, Missouri, and Arizona have either introduced or plan to introduce other age-verification legislation.

Although virtually all devices have filters, they are often turned off when activated. Currently, there are no requirements in Texas for electronic device manufacturers to provide an application or firmware that filters content to prevent minors from accessing explicit material. S.B. 417 aims to address this problem by mandating the automatic installation of content filters on electronic devices and requiring the device filters to be affirmatively set to "ON" by the manufacturer. The electronic device filters would enable parents or guardians 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.

- S.B. 417 adds a new chapter titled "Electronic Device Filters" to the Business and Commerce Code. It requires manufacturers to enable an optional filter on electronic devices sold in Texas that blocks minors from accessing explicit material.
- The filter can be bypassed by the parent/guardian by entering a password or access code but must be reasonably secure.
- Manufacturers violating this chapter can be liable for a civil penalty of up to \$30,000 per violation, and parents or guardians of minors who access explicit material on a device due to the manufacturer's failure to activate the filter may bring a civil action against the manufacturer.
- The Attorney General may also bring actions against manufacturers or join actions brought by parents or guardians to enforce this chapter.

Committee substitute:

- Defines adult user and minor user.
- Defines applicability and who this bill does not impact.

- Removes liability of nonparent violator.

Support:

- Texas Public Policy Foundation
- Parents of minors
- Protect Young Eyes
- Texas Values
- NCOSE – National Center on Sexual Exploitation
- First Baptist Church
- Dallas Prayer Chapter
- Prestonwood Baptist Church
- National Center for Missing and Exploited Children

C.S.S.B. 417 amends current law relating to electronic device filters for certain explicit material 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. APPLICABILITY. Provides that this chapter does not apply to a telecommunications provider who activates an electronic device on behalf of a user.

Sec 121.003. 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 or a minor user's parent or guardian 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. 121.004. 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 121.003; and

(3) a minor user accesses explicit material on the device.

(b) Provides that, notwithstanding Subsection (a), a manufacturer does not violate this chapter if the manufacturer makes a good faith effort to provide an electronic device that automatically enables a filter under Section 121.003.

#### SUBCHAPTER B. ENFORCEMENT

Sec. 121.051. CIVIL PENALTY. (a) Provides that a manufacturer who violates Section 121.004(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 121.004(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. 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 the remedies provided under Subsection (a) and Section 121.051, if the attorney general joins an action in accordance with Subsection (b).

SECTION 2. Requires each manufacturer to implement a software update to automatically enable an electronic device filter on an electronic device in this state or a device associated with a user account for a user in this state, as required by this Act, not later than January 1, 2024.

SECTION 3. Effective date: January 1, 2024.