

A BILL TO BE ENTITLED

AN ACT

relating to electronic device filters for certain explicit material; providing a civil penalty.

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 121 to read as follows:

CHAPTER 121. ELECTRONIC DEVICE FILTERS

SUBCHAPTER A. ELECTRONIC DEVICE FILTER REQUIREMENTS

Sec. 121.001. DEFINITIONS. In this chapter:

(1) "Activate" means the process of powering on an electronic device and associating the device with a new user account.

(2) "Electronic device" means a device with a screen that is capable of connecting to a cellular network or the Internet.

(3) "Explicit material" means visual material depicting:

(A) the intimate parts of a person;

(B) sexual conduct; or

(C) simulated sexual conduct.

(4) "Filter" means software installed on an electronic device that is capable of preventing the device from accessing or displaying explicit material.

(5) "Intimate parts" has the meaning assigned by Section 21.16, Penal Code.

1           (6) "Manufacturer" means a person that:

2                   (A) is engaged in the business of manufacturing  
3 electronic devices or holds a patent for an electronic device; and

4                   (B) maintains a registered agent under Section  
5 5.201, Business Organizations Code.

6           (7) "Minor" means a person younger than 18 years of age  
7 who:

8                   (A) has never been married; and

9                   (B) has not had the disabilities of minority  
10 removed for general purposes.

11           (8) "Sexual conduct" has the meaning assigned by  
12 Section 21.16, Penal Code.

13           (9) "Simulated" has the meaning assigned by Section  
14 21.16, Penal Code.

15           (10) "Visual material" has the meaning assigned by  
16 Section 21.16, Penal Code.

17           Sec. 121.002. APPLICABILITY. This chapter does not apply  
18 to a telecommunications provider who activates an electronic device  
19 on behalf of a user.

20           Sec. 121.003. ELECTRONIC DEVICE FILTER REQUIRED. (a) A  
21 manufacturer shall automatically enable a filter on an electronic  
22 device that is activated in this state.

23           (b) A filter described by Subsection (a), when enabled,  
24 must:

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

27                   (A) a mobile data network;

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

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

4                   (2) notify the user of the electronic device when the  
5 filter prevents the device from accessing or displaying explicit  
6 material;

7                   (3) allow the user of the electronic device or a minor  
8 user's parent or guardian to circumvent the filter by entering a  
9 password or access code; and

10                   (4) reasonably prevent a user of the electronic device  
11 from circumventing, modifying, removing, or uninstalling the  
12 filter without entering a password or access code.

13                   Sec. 121.004. VIOLATION. (a) A manufacturer violates this  
14 chapter if:

15                   (1) the manufacturer manufactures an electronic  
16 device that is activated in this state;

17                   (2) the device does not automatically enable a filter  
18 under Section 121.003; and

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

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

25                   SUBCHAPTER B. ENFORCEMENT

26                   Sec. 121.051. CIVIL PENALTY. (a) A manufacturer who  
27 violates Section 121.004(a) is liable to this state for a civil

1 penalty in an amount not to exceed \$30,000 for each violation.

2 (b) The attorney general may bring an action in the name of  
3 the state to recover a civil penalty under this section. The  
4 attorney general may recover attorney's fees and costs incurred in  
5 bringing an action under this section.

6 (c) The action may be brought in a district court in:

7 (1) Travis County; or

8 (2) a county in which any part of the violation or  
9 threatened violation occurs.

10 (d) The attorney general shall deposit a civil penalty  
11 collected under this section in the state treasury to the credit of  
12 the general revenue fund.

13 Sec. 121.052. CIVIL ACTION AGAINST MANUFACTURER. (a) A  
14 parent or guardian of a minor user of an electronic device who  
15 accesses explicit material on the device due to the actions of a  
16 manufacturer under Section 121.004(a) may bring a civil action  
17 against the manufacturer of the device.

18 (b) A parent or guardian who brings an action under this  
19 section shall provide written notice of the action to the attorney  
20 general.

21 (c) Notwithstanding Sections 41.003 and 41.004, Civil  
22 Practice and Remedies Code, a parent or guardian who prevails in an  
23 action under this section is entitled to recover:

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

25 (2) court costs; and

26 (3) attorney's fees.

27 (d) A court may certify an action brought against a

1 manufacturer under this section as a class action.

2 Sec. 121.053. OTHER ACTION BY ATTORNEY GENERAL. (a) In  
3 addition to collecting the penalty under Section 121.051, the  
4 attorney general may bring a civil action to enjoin a manufacturer  
5 from further violating this chapter.

6 (b) The attorney general may join an action for which the  
7 attorney general receives notice under Section 121.052(b).

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

11 (d) If the attorney general joins an action in accordance  
12 with Subsection (b), the attorney general may seek the remedies  
13 provided under Subsection (a) and Section 121.051.

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

19 SECTION 3. This Act takes effect January 1, 2024.