

1-1 By: Paxton, Middleton S.B. No. 417
1-2 (In the Senate - Filed January 12, 2023; February 15, 2023,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 13, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 0; April 13, 2023,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Hughes</u>	X		
1-10	<u>Paxton</u>	X		
1-11	<u>Bettencourt</u>	X		
1-12	<u>Birdwell</u>	X		
1-13	<u>LaMantia</u>	X		
1-14	<u>Menéndez</u>	X		
1-15	<u>Middleton</u>	X		
1-16	<u>Parker</u>	X		
1-17	<u>Perry</u>	X		
1-18	<u>Schwertner</u>	X		
1-19	<u>Zaffirini</u>	X		

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 417 By: Hughes

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to electronic device filters for certain explicit
1-24 material; providing a civil penalty.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is
1-27 amended by adding Chapter 121 to read as follows:

1-28 CHAPTER 121. ELECTRONIC DEVICE FILTERS

1-29 SUBCHAPTER A. ELECTRONIC DEVICE FILTER REQUIREMENTS

1-30 Sec. 121.001. DEFINITIONS. In this chapter:

1-31 (1) "Activate" means the process of powering on an
1-32 electronic device and associating the device with a new user
1-33 account.

1-34 (2) "Electronic device" means a device with a screen
1-35 that is capable of connecting to a cellular network or the Internet.

1-36 (3) "Explicit material" means visual material
1-37 depicting:

1-38 (A) the intimate parts of a person;

1-39 (B) sexual conduct; or

1-40 (C) simulated sexual conduct.

1-41 (4) "Filter" means software installed on an electronic
1-42 device that is capable of preventing the device from accessing or
1-43 displaying explicit material.

1-44 (5) "Intimate parts" has the meaning assigned by
1-45 Section 21.16, Penal Code.

1-46 (6) "Manufacturer" means a person that:

1-47 (A) is engaged in the business of manufacturing
1-48 electronic devices or holds a patent for an electronic device; and

1-49 (B) maintains a registered agent under Section
1-50 5.201, Business Organizations Code.

1-51 (7) "Minor" means a person younger than 18 years of age
1-52 who:

1-53 (A) has never been married; and

1-54 (B) has not had the disabilities of minority
1-55 removed for general purposes.

1-56 (8) "Sexual conduct" has the meaning assigned by
1-57 Section 21.16, Penal Code.

1-58 (9) "Simulated" has the meaning assigned by Section
1-59 21.16, Penal Code.

1-60 (10) "Visual material" has the meaning assigned by

2-1 Section 21.16, Penal Code.

2-2 Sec. 121.002. APPLICABILITY. This chapter does not apply
 2-3 to a telecommunications provider who activates an electronic device
 2-4 on behalf of a user.

2-5 Sec. 121.003. ELECTRONIC DEVICE FILTER REQUIRED. (a) A
 2-6 manufacturer shall automatically enable a filter on an electronic
 2-7 device that is activated in this state.

2-8 (b) A filter described by Subsection (a), when enabled,
 2-9 must:

2-10 (1) prevent a minor user from accessing, downloading,
 2-11 or displaying explicit material through use of:

2-12 (A) a mobile data network;

2-13 (B) an Internet network, including Wi-Fi; or

2-14 (C) a software application owned and controlled
 2-15 by the manufacturer of the electronic device;

2-16 (2) notify the user of the electronic device when the
 2-17 filter prevents the device from accessing or displaying explicit
 2-18 material;

2-19 (3) allow the user of the electronic device or a minor
 2-20 user's parent or guardian to circumvent the filter by entering a
 2-21 password or access code; and

2-22 (4) reasonably prevent a user of the electronic device
 2-23 from circumventing, modifying, removing, or uninstalling the
 2-24 filter without entering a password or access code.

2-25 Sec. 121.004. VIOLATION. (a) A manufacturer violates this
 2-26 chapter if:

2-27 (1) the manufacturer manufactures an electronic
 2-28 device that is activated in this state;

2-29 (2) the device does not automatically enable a filter
 2-30 under Section 121.003; and

2-31 (3) a minor user accesses explicit material on the
 2-32 device.

2-33 (b) Notwithstanding Subsection (a), a manufacturer does not
 2-34 violate this chapter if the manufacturer makes a good faith effort
 2-35 to provide an electronic device that automatically enables a filter
 2-36 under Section 121.003.

2-37 SUBCHAPTER B. ENFORCEMENT

2-38 Sec. 121.051. CIVIL PENALTY. (a) A manufacturer who
 2-39 violates Section 121.004(a) is liable to this state for a civil
 2-40 penalty in an amount not to exceed \$30,000 for each violation.

2-41 (b) The attorney general may bring an action in the name of
 2-42 the state to recover a civil penalty under this section. The
 2-43 attorney general may recover attorney's fees and costs incurred in
 2-44 bringing an action under this section.

2-45 (c) The action may be brought in a district court in:

2-46 (1) Travis County; or

2-47 (2) a county in which any part of the violation or
 2-48 threatened violation occurs.

2-49 (d) The attorney general shall deposit a civil penalty
 2-50 collected under this section in the state treasury to the credit of
 2-51 the general revenue fund.

2-52 Sec. 121.052. CIVIL ACTION AGAINST MANUFACTURER. (a) A
 2-53 parent or guardian of a minor user of an electronic device who
 2-54 accesses explicit material on the device due to the actions of a
 2-55 manufacturer under Section 121.004(a) may bring a civil action
 2-56 against the manufacturer of the device.

2-57 (b) A parent or guardian who brings an action under this
 2-58 section shall provide written notice of the action to the attorney
 2-59 general.

2-60 (c) Notwithstanding Sections 41.003 and 41.004, Civil
 2-61 Practice and Remedies Code, a parent or guardian who prevails in an
 2-62 action under this section is entitled to recover:

2-63 (1) damages in the amount of \$10,000;

2-64 (2) court costs; and

2-65 (3) attorney's fees.

2-66 (d) A court may certify an action brought against a
 2-67 manufacturer under this section as a class action.

2-68 Sec. 121.053. OTHER ACTION BY ATTORNEY GENERAL. (a) In
 2-69 addition to collecting the penalty under Section 121.051, the

3-1 attorney general may bring a civil action to enjoin a manufacturer
3-2 from further violating this chapter.

3-3 (b) The attorney general may join an action for which the
3-4 attorney general receives notice under Section 121.052(b).

3-5 (c) The court shall permit the attorney general to join an
3-6 action in accordance with Subsection (b) not later than the 30th day
3-7 after the date the attorney general receives notice of the action.

3-8 (d) If the attorney general joins an action in accordance
3-9 with Subsection (b), the attorney general may seek the remedies
3-10 provided under Subsection (a) and Section 121.051.

3-11 SECTION 2. Not later than January 1, 2024, each
3-12 manufacturer shall implement a software update to automatically
3-13 enable an electronic device filter on an electronic device in this
3-14 state or a device associated with a user account for a user in this
3-15 state, as required by this Act.

3-16 SECTION 3. This Act takes effect January 1, 2024.

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