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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 15, TITLE 16 SO AS TO ENACT THE "HUMAN TRAFFICKING PREVENTION ACT", TO REQUIRE A BUSINESS, MANUFACTURER, WHOLESALER, OR INDIVIDUAL THAT MANUFACTURES, DISTRIBUTES, OR SELLS A PRODUCT THAT MAKES CONTENT ACCESSIBLE ON THE INTERNET TO INSTALL AND OPERATE A DIGITAL BLOCKING CAPABILITY THAT RENDERS OBSCENITY INACCESSIBLE AND TO SET MINIMUM REQUIREMENTS FOR THE BLOCKING CAPABILITY; TO ESTABLISH A PROCEDURE FOR THE CONSUMER TO DEACTIVATE THE DIGITAL BLOCKING CAPABILITY; TO ALLOW A REPORTING SYSTEM TO UNBLOCK CONTENT THAT IS NOT OBSCENE, SUCH AS SOCIAL MEDIA WEBSITES, AND AUTHORIZE A CONSUMER TO SEEK JUDICIAL RELIEF IF THE FILTERED CONTENT IS NOT UNBLOCKED WITHIN A REASONABLE TIME; TO ESTABLISH CRIMINAL PENALTIES FOR A BUSINESS OR INDIVIDUAL THAT VIOLATES THIS ARTICLE; TO AUTHORIZE THE ATTORNEY GENERAL TO SEEK INJUNCTIVE RELIEF AGAINST A BUSINESS, MANUFACTURER, WHOLESALER OR INDIVIDUAL THAT MANUFACTURES, DISTRIBUTES, OR SELLS ANY PRODUCTS IN THIS STATE WITHOUT A DIGITAL BLOCKING CAPABILITY, TO ESTABLISH THAT A CONSUMER OR THE ATTORNEY GENERAL MAY FILE A SUIT AGAINST A PARTY THAT IS UNRESPONSIVE TO A REPORT OF OBSCENE MATERIAL BREACHING THE FILTER AND TO PRESCRIBE DAMAGES FOR EACH VIOLATION.

1 Whereas, the State of South Carolina has a compelling interest in
2 protecting the public health and protecting minors from being
3 exposed to obscenity; and

4
5 Whereas, studies have shown that pornography is a public health
6 hazard, leading to a broad spectrum of well documented individual
7 impacts and societal harms; and

8
9 Whereas, easily accessible pornography on products that are
10 distributed through the Internet is impacting the demand for human
11 trafficking and prostitution; and

12
13 Whereas, the General Assembly has a compelling interest to impose
14 a narrowly tailored, common sense filter system that combats the
15 growing epidemic of dissemination of pornographic images and the
16 resulting demand for human trafficking while balancing the
17 consumer's fundamental right to regulate his own mental health.

18 Now, therefore,

19
20 Be it enacted by the General Assembly of the State of South
21 Carolina:

22
23 SECTION 1. Chapter 15, Title 16 of the 1976 Code is amended by
24 adding:

25
26 "Article 5

27
28 Human Trafficking Prevention Act

29
30 Section 16-15-500. This article may be cited as the 'Human
31 Trafficking Prevention Act'.

32
33 Section 16-15-510. (A) A business, manufacturer, wholesaler, or
34 individual that manufactures, distributes, or sells a product that
35 makes content accessible on the Internet is prohibited from doing
36 business in this State unless the product contains an active and
37 operating digital blocking capability that renders any obscenity, as
38 defined in Section 16-15-305, inaccessible.

39 (B) The business, manufacturer, wholesaler, or individual must:

40 (1) make reasonable and ongoing efforts to ensure that the
41 digital content blocking capability functions properly, including
42 establishing a reporting mechanism such as a website or call center

1 to allow for a consumer to report unblocked obscene content or
2 report blocked content that is not obscene;
3 (2) ensure that all child pornography and revenge
4 pornography is inaccessible on the product;
5 (3) prohibit the product from accessing any hub that
6 facilitates prostitution; and
7 (4) render websites that are known to facilitate any trafficking
8 of persons, as defined in Section 16-3-2010(9), inaccessible.

9
10 Section 16-15-520. Any digital blocking capability may be
11 deactivated after the consumer:

12 (1) requests in writing that the capability be disabled;
13 (2) presents identification to verify that the consumer is eighteen
14 years of age or older;
15 (3) acknowledges receiving a written warning regarding the
16 potential danger of deactivating the digital blocking capability; and
17 (4) pays a one-time twenty dollar digital access fee.

18
19 Section 16-15-530. (A) If the digital blocking capability blocks
20 content that is not obscene and the block is reported to a call center
21 or reporting website, the content must be unblocked within a
22 reasonable time but in no event later than five business days after
23 the block is reported.

24 (B) The digital blocking capability may not filter social media
25 websites that are primarily used for social interaction if these
26 websites have a reporting center and remain reasonably proactive in
27 removing reported obscene content.

28 (C) The consumer may seek judicial relief to unblock filtered
29 content.

30
31 Section 16-15-540. (A) A manufacturer or wholesaler that
32 manufactures, distributes, or sells a product that makes content
33 accessible on the Internet may elect to pay a twenty dollar opt-out
34 fee for each product that enters this State's stream of commerce.

35 (B) A business, manufacturer, wholesaler, or individual that
36 manufactures, distributes, or sells a product that makes content
37 accessible on the Internet must submit the funds collected as the
38 digital access fee or the opt-out fee to the State Treasurer each
39 quarter. The State Treasurer must disburse the funds collected to the
40 Attorney General to help fund the operations of the Human
41 Trafficking Task Force and the Internet Crimes Against Children
42 Task Force.

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1 Section 16-15-550. (A) A business or individual that violates the
2 provisions of this article by manufacturing, distributing, or selling a
3 product that makes content accessible on the Internet without the
4 digital content blocking capability, selling the product to a minor
5 without activated filters, or providing the means to disable the
6 digital content blocking capability is guilty of violating Sections
7 16-15-250, 16-15-345, and 16-15-385 and, upon conviction, is
8 subject to the penalties provided by those sections.

9 (B) A business or individual who complies with the provisions
10 of Section 16-15-520 is not subject to criminal liability for violating
11 the provisions of this article.

12

13 Section 16-15-560. (A) The Office of Attorney General is
14 authorized to seek injunctive relief against any business,
15 manufacturer, wholesaler, or individual that manufactures,
16 distributes, or sells any products in this State that violates the
17 provisions of this article.

18 (B) If a business, manufacturer, wholesaler, or individual is
19 unresponsive to a report of obscene material that has breached the
20 filter, the consumer or Attorney General may file a civil suit. The
21 consumer or Attorney General may seek damages of up to five
22 hundred dollars for each piece of content that was reported but not
23 subsequently blocked.

24 (C) The prevailing party in the civil action may seek attorneys'
25 fees."

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27 SECTION 2. This act takes effect upon approval by the Governor.

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