SENATE BILL No. 394

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-15; IC 5-2; IC 24-4-21.

Synopsis: Human trafficking. Requires manufacturers, sellers, and distributors of Internet enabled devices to install blocking software to prevent the device from accessing: (1) an Internet web site hosting indecent content; and (2) an Internet web site that promotes human trafficking or prostitution. Allows a consumer to deactivate blocking software by paying a $20 deactivation fee and meeting certain other requirements, and provides that: (1) 60% of the fee shall be deposited in the violent crime victims compensation fund; (2) 20% of the fee shall be deposited in the human trafficking prevention and victim assistance fund; and (3) 20% of the fee shall be deposited in the state general fund. Requires the attorney general to monthly compile and transmit a list of Internet web sites to be blocked.

Effective: July 1, 2018.
SENATE BILL No. 394

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-6-15 is added to the Indiana Code as a new chapter to read as follows [effective July 1, 2018]:

Chapter 15. Indecent Internet Web Sites

Sec. 1. The following definitions apply throughout this chapter:

(1) "Blocking software" has the meaning set forth in IC 24-4-21-2.

(2) "Indecent" has the meaning set forth in IC 24-4-21-2.

(3) "Internet enabled device" has the meaning set forth in IC 24-4-21-2.

Sec. 2. (a) The attorney general shall compile a list of Internet web sites that:

(1) contain indecent content; or

(2) facilitate human trafficking.

However, the attorney general shall exclude from the list any social media Internet web site that maintains in good faith its own filter for indecent content.
(b) The attorney general shall update the list described in subsection (a) as frequently as practicable, but at least one (1) time every thirty (30) days.

(c) At least one (1) time every thirty (30) days, the attorney general shall transmit the list to persons that manufacture, sell, or distribute Internet enabled devices for use in the blocking software installed on the device, as described in IC 24-4-21.

(d) The list described in subsection (a) is confidential and may not be placed on the Internet web site of the attorney general unless access to the list is secured by a password or other security measure.

Sec. 3. The attorney general shall receive and investigate a complaint that a particular Internet web site should not be blocked by blocking software. If the attorney general determines that an Internet web site should not be blocked, the attorney general shall inform persons that manufacture, sell, or distribute Internet enabled devices to unblock the Internet web site. The attorney general shall notify these persons at the time that the attorney general transmits the list described in section 2 of this chapter.

Sec. 4. The attorney general shall develop and distribute a written document that describes the dangers of deactivating blocking software, as described in IC 24-4-21-4.

Sec. 5. The attorney general may adopt rules to implement this chapter.

SECTION 2. IC 5-2-6-25, AS ADDED BY P.L.237-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 25. (a) The human trafficking prevention and victim assistance fund is established for the purpose of providing funds for:

1. human trafficking victim services; and
2. human trafficking prevention programs provided by community based organizations.

Money in the fund may be used only to carry out the purposes of the fund.

(b) The fund shall be administered by the institute.

(c) The fund consists of:

1. money deposited in the fund under IC 24-4-21-5 and IC 32-30-7-24.5;
2. grants; and
3. donations.

(d) The expenses of administering the fund shall be paid from money in the fund.
(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The state is subrogated to the rights of a victim to whom services are provided, to the extent of the services. The subrogation rights are against the perpetrator of the crime or a person otherwise liable for the loss. If the victim brings a civil action against the perpetrator of the crime or against the person otherwise liable for the loss, the victim shall promptly notify the institute of the filing of the civil action.

(h) In addition to the subrogation rights under subsection (g), the state is entitled to a lien in the amount of the services provided on a recovery made by or on behalf of the victim. The state may:

(1) recover the amount of services in a separate action; or

(2) intervene in an action brought by or on behalf of the victim.

SECTION 3. IC 5-2-6.1-41, AS AMENDED BY P.L.105-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 41. The fund consists of amounts deposited under IC 5-2-6.1-41, as amended by P.L.105-2006, SECTION 1, IC 5-2-6.1-41, IC 11-10-7-5, IC 11-10-8-6, IC 24-4-21-5, IC 33-37-7-9, IC 34-51-3-6, and IC 35-50-5-3 and appropriations from the general assembly.

SECTION 4. IC 24-4-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

Chapter 21. Indecent Internet Content
Sec. 1. This chapter does not apply to:

(1) an occasional sale of an Internet enabled device by a person that is not regularly engaged in the trade or business of selling Internet enabled devices; or

(2) the sale, manufacture, or distribution of an Internet enabled device manufactured before January 1, 2019.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Blocking software" means software that prevents an Internet enabled device from accessing:

(A) indecent content; or

(B) an Internet web site that facilitates human trafficking; on the Internet. However, blocking software may not prevent access to a social media web site that maintains in good faith its own filter for indecent content.

(2) "Indecent" means:
(A) obscene (as described in IC 35-49-2-1); or
(B) harmful to minors (as described in IC 35-49-2-2).

(3) "Internet enabled device" means a device that allows a user to access the Internet and view or download content from the Internet.

Sec. 3. (a) Except as provided in section 4 of this chapter, a person may not manufacture, sell, or distribute an Internet enabled device unless the device contains active blocking software.

(b) A person that manufactures, sells, or distributes an Internet enabled device with active blocking software shall make reasonable and ongoing efforts to ensure that:

(1) the blocking software is updated and continues to function effectively; and
(2) the source code and any other information that could allow a person to bypass the blocking software is kept confidential.

The person shall ensure that the blocking software blocks Internet web sites identified by the attorney general as described in IC 4-6-15.

Sec. 4. A person that manufactures, sells, or distributes an Internet enabled device may not disable the blocking software unless all the following apply:

(1) The consumer requests in writing that the blocking software be disabled.
(2) The manufacturer, seller, or distributor verifies that the consumer is at least eighteen (18) years of age.
(3) The consumer receives, and acknowledges in writing the receipt of, a written document describing the potential danger of deactivating the blocking software.
(4) The consumer pays a twenty dollar ($20) deactivation fee.

Sec. 5. (a) The manufacturer, seller, or distributor shall remit the deactivation fee collected under section 4 of this chapter to the department of state revenue at the same time and in the same manner that the state gross retail tax must be remitted to the department of state revenue. The manufacturer, seller, or distributor shall remit the fee with either a separate return or with a return that is combined with the return filed for the payment of the state gross retail tax, as determined by the department of state revenue.

(b) The department of state revenue shall deposit:

(1) sixty percent (60%) of the proceeds of the deactivation fee in the violent crime victims compensation fund established by
IC 5-2-6.1-40;
(2) twenty percent (20%) of the proceeds of the deactivation
fee in the human trafficking prevention and victim assistance
fund established by IC 5-2-6-25; and
(3) twenty percent (20%) of the proceeds of the deactivation
fee in the state general fund.
Sec. 6. (a) A person that violates section 4 of this chapter
commits a Class B infraction.
(b) All infractions committed under this section on one (1) day
constitute only one (1) infraction.
(c) Each day on which an infraction is committed under this
section constitutes a separate violation.
Sec. 7. A violation of this chapter is a deceptive act that is
actionable by the attorney general and subject to the penalties and
remedies available to the attorney general under IC 24-5-0.5.