
A BILL FOR AN ACT

RELATING TO DIGITAL CONTENT BLOCKING CAPABILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to title 26 to be appropriately designated and to read as follows:

"CHAPTER

**DIGITAL CONTENT BLOCKING CAPABILITIES IN PRODUCTS THAT MAKE CONTENT
ACCESSIBLE ON THE INTERNET**

§ -1 **Digital content blocking capabilities in products that make content accessible on the Internet required.** (a) It shall be unlawful and a violation of section 712- for any person to manufacture, sell, offer for sale, lease, or distribute in this State, a product that makes content accessible on the Internet:

(1) Unless the product contains digital content blocking capability, such as a digital blinder rack, that renders material described by this chapter inaccessible; and

(2) To a minor, unless the digital content blocking capability is active and properly operating to make pornographic material inaccessible.

(b) Any person who manufactures, sells, offers for sale, leases, or distributes in this State, a product that makes content accessible on the Internet shall make reasonable and ongoing efforts to:

(1) Ensure that the digital content blocking capability functions properly;

(2) Establish and maintain a reporting mechanism, such as a website or call center, to allow a consumer to report unblocked pornographic material or report blocked material that is not pornographic;

(3) Ensure that all child pornography and revenge pornography is inaccessible on the product;

(4) Ensure that the product is unable to access any hub, website, or internet service that facilitates prostitution; and

(5) Render inaccessible websites that are known to facilitate human trafficking.

(c) The digital content blocking capability shall not block access to social media websites that provide a means for the website's users to report pornographic materials and have in place procedures for evaluating those reports and removing pornographic material.

(d) As used in this section:

"Child pornography" has the same meaning as in section 707-750.

"Pornographic" has the same meaning as in section 712-1210.

§ -2 Deactivation of digital content blocking capability. (a) Any digital content blocking capability required under this chapter shall be deactivated after a consumer:

(1) Requests that the capability be deactivated;

(2) Presents identification to verify that the consumer is eighteen years of age or older;

(3) Acknowledges receiving a written warning regarding the potential dangers of deactivating the digital content blocking capability; and

(4) Pays a one-time \$20 digital access fee.

(b) All moneys collected pursuant to subsection (a)(4) shall be deposited into the human trafficking victim services fund established under section 706-650.5.

(c) A person who manufactures, sells, offers for sale, leases, or distributes in this State, a product that makes content accessible on the Internet may charge a separate, reasonable opt-in fee for each product that enters the State's stream of commerce prior to deactivating the digital content blocking capability.

§ -3 Material that is improperly blocked; failure to block material. (a) If the digital content blocking capability blocks material that is not described in section -1 or defined in section 712-1210 and the block is reported to a call center or reporting website, the material shall be unblocked within a reasonable time, but in no event later than five business days after the block is first reported.

(b) A consumer may seek judicial relief to unblock filtered content.

(c) If the digital content blocking capability fails to block material described in section -1 or defined in section 712-1210 and the failure is reported to a call center or reporting website, the material shall be blocked within a reasonable time, but in no event later than five business days after the failure to block is first reported.

If a person who manufactures, sells, offers for sale, leases, or distributes in this State, a product that makes content accessible on the Internet is unresponsive to a report of material described in section -1 or defined in section 712-1210 that has breached the filter, the attorney general or a consumer may file a civil suit. The attorney general or consumer may seek damages of up to \$500 for each piece of content that is reported but not subsequently blocked. The prevailing party in the civil action may seek reasonable attorney's fees.

(d) It shall be an affirmative defense to a civil action under this section that the dissemination of content described in section -1 or defined in section 712-1210 was by an institution or organization having a justifiable scientific, educational, governmental, or other similar purpose for displaying pornographic material."

SECTION 2. Section 706-650.5, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

"(4) All fees paid and interest accrued on funds collected pursuant to this section, along with all fees collected pursuant to section -2, shall be deposited into the human trafficking victim services fund."

SECTION 3. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§712- Failure to include digital content blocking capability. (1) A person commits the offense of failure to include digital content blocking capability if the person knowingly manufactures, sells, offers for sale, leases, or distributes in this State, a product that makes content accessible on the Internet:

(a) Unless the product contains digital content blocking capability, such as a digital blinder rack, that renders material described in section -1 or defined in section 712-1210 inaccessible; and
(b) To a minor, unless the digital content blocking capability is active and properly operating to make pornographic material inaccessible.

(2) Failure to include digital content blocking capability in a product that makes content accessible on the Internet is a misdemeanor."

SECTION 4. This Act shall not retroactively apply to products created before its effective date, and does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Nothing in this Act shall be construed to diminish a seller's duty to report prohibited content under title 18 United States Code section 2258A.

SECTION 6. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2020.

INTRODUCED BY: _____

Report Title:

Internet; Digital Content Blocking Capabilities

Description:

Requires persons who manufacture, sell, offer for sale, lease, or distribute a product that makes content accessible on the internet to include digital content blocking capability that renders inaccessible human trafficking websites, child pornography, revenge pornography, and other pornographic material. Allows consumers to request deactivation of the blocking capability if the consumer fulfills certain requirements, including payment of a digital access fee that is deposited into the human trafficking victim services fund. Requires persons who manufacture, sell, offer for sale, lease, or distribute a product that makes content accessible on the internet to establish and maintain a reporting system for content that is improperly blocked and pornographic content that the blocking capability fails to block. Establishes the misdemeanor offense of failure to include digital content blocking capability.

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