

**101ST GENERAL ASSEMBLY
State of Illinois
2019 and 2020
HB2616**

Introduced , by Rep. Amy Grant

SYNOPSIS AS INTRODUCED:

New Act
815 ILCS 505/2Z from Ch. 121 1/2, par. 262Z

Creates the Human Trafficking and Child Exploitation Prevention Act. Provides that it is unlawful to make available a device that makes content accessible on the Internet unless the product contains digital blocking capability that renders inaccessible a website displaying obscene material, defined under the Criminal Code of 2012, and, if sold to a minor, the digital blocking capability is active. Permits the blocking capability to be deactivated if certain steps are undertaken. Provides a remedy if non-obscene material is blocked. Imposes a nominal fee upon devices for which blocking capability is disabled to be remitted to a fund to help the State bear the costs of upholding community standards and of combating sex crimes. Permits retailers to charge a separate opt-in fee for profit. Authorizes the Attorney General or a consumer to seek damages. Provides affirmative defenses and exemptions. Amends the Consumer Fraud and Deceptive Business Practices Act to include the Human Trafficking and Child Exploitation Prevention Act within the list of Acts subject to the Consumer Fraud and Deceptive Business Practice Act. Effective one year after becoming law.

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FISCAL NOTE ACT MAY
APPLY

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Human
5 Trafficking and Child Exploitation Prevention Act.

6 Section 5. Duty of the seller.

7 (a) A person may not manufacture, sell, offer for sale,
8 lease, or distribute a product that makes content accessible on
9 the Internet unless:

10 (1) the product contains digital blocking capability
11 that attempts to render websites displaying obscene
12 material, as defined in the Criminal Code of 2012,
13 inaccessible by default; and

14 (2) if sold to a minor, the digital blocking capability
15 is active and attempting to make websites displaying
16 obscene material inaccessible by default.

17 (b) A person who manufactures, sells, offers for sale,
18 leases, or distributes a product that makes content accessible
19 on the Internet shall:

20 (1) make reasonable and ongoing efforts to ensure that
21 the digital content blocking capability functions
22 properly;

23 (2) establish a reporting mechanism, such as a website

1 or call center, to allow a consumer to report unblocked
2 websites that are displaying obscene material or report
3 blocked websites are not displaying obscene material;

4 (3) make reasonable and ongoing efforts to ensure that
5 websites displaying child pornography and revenge
6 pornography are inaccessible on the product by default;

7 (4) make reasonable and ongoing efforts to prohibit the
8 product from accessing any hub that facilitates
9 prostitution by default;

10 (5) make reasonable and ongoing efforts to render
11 websites that are known to facilitate human trafficking, in
12 violation of the Criminal Code of 2012, inaccessible by
13 default; and

14 (6) report child pornography received through the
15 reporting mechanism to the Cyber Tipline at the National
16 Center For Missing and Exploited Children in accordance
17 with 18 U.S.C. 2258A.

18 Section 10. Deactivation of blocking capability.

19 (a) Any digital blocking capability must be deactivated
20 after a consumer:

21 (1) requests that the capability be disabled;

22 (2) presents identification to verify that the
23 consumer is 18 years of age or older;

24 (3) acknowledges a warning regarding the potential
25 danger of deactivating the digital blocking capability;

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1 and

2 (4) pays a one-time \$20 digital access fee to be
3 remitted to the State.

4 (b) The digital access fee in paragraph (4) of subsection
5 (a) of this Section is not content based, but charged and
6 remitted to the State to help the State bear the costs of
7 upholding community standards of decency and of combating
8 sex-related crimes.

9 (c) Nothing in this Act shall be construed to prevent a
10 seller from charging and retaining as profit a reasonable
11 separate fee to deactivate the digital blocking capability in
12 addition to the fee imposed under paragraph (4) of subsection
13 (a) of this Section.

14 Section 15. Collection and distribution of fees.

15 (a) Each quarter, a person that receives a digital access
16 fee or an opt-in fee under paragraph (4) subsection (a) of
17 Section 10 shall do both of the following:

18 (1) Remit all fee proceeds to the Department of Revenue
19 in the manner prescribed by the Department of Revenue.

20 (2) File a report with the Department of Revenue
21 containing the information prescribed by the Department of
22 Revenue.

23 (b) The Department of Revenue shall deposit the funds
24 remitted under this Section as follows:

1 Services for Survivors of Human Trafficking Fund;

2 (2) 40% shall be deposited into the Alcoholism and
3 Substance Abuse Fund;

4 (c) The money deposited to those funds may be used only:

5 (1) for the purposes authorized for the Specialized
6 Service for Survivors of Human Trafficking Fund and the
7 Alcoholism and Substance Abuse Fund;

8 (2) by the Attorney General, for grants to government
9 and non-government entities and individuals that are
10 working to uphold community standards of decency, to
11 strengthen families and to develop, expand, or strengthen
12 programs for victims of human child exploitation,
13 providing grants to fund:

14 (i) rape kit testing;

15 (ii) physical and mental health services;

16 (iii) temporary and permanent housing placement;

17 (iv) employment, placement, education, training;

18 (v) prevention of human trafficking, domestic
19 violence, prostitution, divorce child abuse, and rape
20 by training first responders and by increasing public
21 awareness;

22 (vi) independent school districts;

23 (vii) victims' compensation;

24 (viii) family counseling;

25 (xi) shelters and Dream Centers;

26 (x) creative art projects designed to promote

1 decency; and

2 (3) by the Office of the Governor for grants to support
3 human trafficking prosecution and projects to uphold
4 community standards of decency.

5 Section 20. Duty to maintain the quality of the digital
6 blocking capability.

7 (a) If the digital blocking capability blocks a website
8 that is not displaying obscene material or is not known to
9 facilitate human trafficking or prostitution and the block is
10 reported to a call center or reporting mechanism, the material
11 shall be unblocked within a reasonable time, but in no event
12 later than 5 business days after the block is first reported.

13 (b) A consumer or the Attorney General may seek judicial
14 relief to unblock filtered content and may seek attorney fees,
15 costs, and other forms of relief.

16 (c) If a person who manufactures, sells, offers for sale,
17 leases, or distributes a product that makes content accessible
18 on the Internet is unresponsive to a report of a website that
19 is displaying obscene material that has breached the filter,
20 the Attorney General or a consumer may file a civil suit. The
21 Attorney General or a consumer may seek damages of up to \$500
22 for website that was reported, but not subsequently blocked.
23 The prevailing party in the civil action may seek attorney's
24 fees, costs, and other forms of relief.

25 (d) It shall be an affirmative defense in civil action to a

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1 charge of violating this Act that the dissemination of the
2 content described in Section 5 was limited to institutions or
3 organizations having scientific, educational, or other similar
4 justifications for displaying the material covered by Section 5
5 of this Act.

6 Section 25. Violation; enforcement.

7 (a) A person is guilty of an unlawful practice under the
8 Consumer Fraud and Deceptive Business Practices Act if he or
9 she:

10 (1) violates subsection (a) of Section 5;

11 (2) releases the source code or mechanism to deactivate
12 to a minor or non-consenting adult;

13 (3) deactivates the blocking capability without
14 complying with the steps in subsection (a) of Section 10;

15 (b) All remedies, penalties, and authority granted to the
16 Attorney General by the Consumer Fraud and Deceptive Business
17 Practices Act shall be available to him or her for the
18 enforcement of this Act.

19 Section 30. Exemptions.

20 (a) This Act does not apply to an occasional sale of a
21 internet enabled device by a person that is not regularly
22 engaged in the trade business of selling internet enabled
23 devices.

24 (b) This Act does not retroactively apply to products

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1 produced or sold before the effective date of this Act.

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

6 (d) The digital blocking capability shall not block access
7 search engines.

8 Section 90. The Consumer Fraud and Deceptive Business
9 Practices Act is amended by changing Section 2Z as follows:

10 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

11 Sec. 2Z. Violations of other Acts. Any person who knowingly
12 violates the Automotive Repair Act, the Automotive Collision
13 Repair Act, the Home Repair and Remodeling Act, the Dance
14 Studio Act, the Physical Fitness Services Act, the Hearing
15 Instrument Consumer Protection Act, the Illinois Union Label
16 Act, the Installment Sales Contract Act, the Job Referral and
17 Job Listing Services Consumer Protection Act, the Travel
18 Promotion Consumer Protection Act, the Credit Services
19 Organizations Act, the Automatic Telephone Dialers Act, the
20 Pay-Per-Call Services Consumer Protection Act, the Telephone
21 Solicitations Act, the Illinois Funeral or Burial Funds Act,
22 the Cemetery Oversight Act, the Cemetery Care Act, the Safe and
23 Hygienic Bed Act, the Illinois Pre-Need Cemetery Sales Act, the
24 High Risk Home Loan Act, the Human Trafficking and Child

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1 Exploitation Act, the Payday Loan Reform Act, the Mortgage
2 Rescue Fraud Act, subsection (a) or (b) of Section 3-10 of the

3 Cigarette Tax Act, subsection (a) or (b) of Section 3-10 of the
4 Cigarette Use Tax Act, the Electronic Mail Act, the Internet
5 Caller Identification Act, paragraph (6) of subsection (k) of
6 Section 6-305 of the Illinois Vehicle Code, Section 11-1431,
7 18d-115, 18d-120, 18d-125, 18d-135, 18d-150, or 18d-153 of the
8 Illinois Vehicle Code, Article 3 of the Residential Real
9 Property Disclosure Act, the Automatic Contract Renewal Act,
10 the Reverse Mortgage Act, Section 25 of the Youth Mental Health
11 Protection Act, the Personal Information Protection Act, or the
12 Student Online Personal Protection Act commits an unlawful
13 practice within the meaning of this Act.

14 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,
15 eff. 7-28-16; 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;
16 100-863, eff. 8-14-18.)

17 Section 99. Effective date. This Act takes effect one year
18 after becoming law.