

ASSEMBLY, No. 878
STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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SYNOPSIS

“Human Trafficking and Child Exploitation Prevention Act”; requires Internet-connected devices to have blocking capability in certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning obscene material and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. This act shall be known and may be cited as the “Human Trafficking and Child Exploitation Prevention Act.”

2. a. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to manufacture, sell, offer for sale, lease, or distribute a product that makes content accessible on the Internet:

(1) unless the product contains digital blocking capability that renders any obscene material, as defined in N.J.S.2C:34-2 or N.J.S.2C:34-3, inaccessible; and

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

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

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

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

- (3) ensure that all child pornography and revenge pornography is inaccessible on the product;
- (4) prohibit the product from accessing any hub that facilitates prostitution; and
- (5) render websites that are known to facilitate human trafficking, in violation of section 1 of P.L.2005, c.77 (C.2C:13-8), inaccessible.

3. a. Any digital blocking capability may be deactivated after a consumer:

- (1) requests in writing that the capability be disabled;
- (2) presents identification to verify that the consumer is 18 years of age or older;
- (3) acknowledges receiving a written warning regarding the potential danger of deactivating the digital blocking capability; and
- (4) pays a one-time \$20 digital access fee.

b. A person who manufactures, sells, offers for sale, leases, or distributes a product that makes content accessible on the Internet may elect to pay a \$20 opt-out fee for each product that enters this State's stream of commerce.

c. A person who manufactures, sells, offers for sale, leases, or distributes a product that makes content accessible on the Internet shall submit the funds collected as the digital access fee, pursuant to paragraph (4) of subsection a. of this section, or the opt-out fee pursuant to subsection b. of this section, to the State Treasurer each quarter. The State Treasurer shall forward the funds collected to the Attorney General to help fund the operations of the Commission on Human Trafficking, established by section 1 of P.L.2013, c.51 (C.52:17B-237).

4. a. If the digital blocking capability blocks material that is not obscene 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 a person who manufactures, sells, offers for sale, leases, or distributes a product that makes content accessible on the Internet is unresponsive to a report of obscene material that has breached the filter, the Attorney General or a consumer may file a civil suit. The Attorney General or a consumer may seek damages of up to \$500 for each piece of content that was reported but not subsequently blocked. The prevailing party in the civil action may seek attorneys' fees.

5. This act shall take effect immediately.

STATEMENT

This bill, to be known as the "Human Trafficking and Child Exploitation Prevention Act," makes it an unlawful practice under the consumer fraud act to manufacture, sell, offer for sale, lease, or distribute a product that makes content accessible on the Internet unless the product contains digital blocking capability that renders any obscene material inaccessible. Additionally, it would be an unlawful practice for a minor to receive such a product unless the digital blocking capability is active and properly operating.

Under the bill, a person who manufactures, sells, offers for sale, leases, or distributes a product that makes content accessible on the Internet is to:

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

- (2) establish a reporting mechanism, such as a website or call center, to allow a consumer to report unblocked obscene material or report blocked material that is not obscene;
- (3) ensure that all child pornography and revenge pornography is inaccessible on the product;
- (4) prohibit the product from accessing any hub that facilitates prostitution; and
- (5) render websites that are known to facilitate human trafficking inaccessible.

An unlawful practice is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. Additionally, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured.

The bill provides that any digital blocking capability may be deactivated after a consumer: requests in writing that the capability be disabled; presents identification to verify that he or she is 18 years of age or older; acknowledges receiving a written warning regarding the potential danger of deactivating the digital blocking capability; and pays a one-time \$20 digital access fee. A person who manufactures, sells, offers for sale, leases, or distributes a product that makes content accessible on the Internet may elect to pay a \$20 opt-out fee for each product that enters this State's stream of commerce. The digital access fee and opt-out fee would be collected and submitted by the manufacturer or seller to the State Treasurer each quarter, to be forwarded to the Attorney General to help fund the operations of the Commission on Human Trafficking.

If the digital blocking capability blocks material that is not obscene and the block is reported to a call center or reporting website, the material is to be unblocked within a reasonable time, but no later than five business days after the block is first reported. A consumer may seek judicial relief to unblock filtered content.

The Attorney General or a consumer may file a civil suit for any report of unblocked obscene material that does not receive a response. The Attorney General or consumer may seek damages of up to \$500 for each piece of content that was reported but not subsequently blocked. The prevailing party in the civil action may seek attorneys' fees.