

South Carolina General Assembly
123rd Session, 2019-2020

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H. 3249

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 15, TITLE 16 ENTITLED THE "HUMAN TRAFFICKING AND CHILD EXPLOITATION PREVENTION ACT" SO AS 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.

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

Whereas, studies have shown that pornography is a public health hazard, leading to a broad spectrum of well documented individual impacts and societal harms that are especially injurious to children; and

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

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

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

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

"Article 5

Human Trafficking and Child Exploitation Prevention Act

Section [16-15-500](#). (A) A business, manufacturer, wholesaler, or individual that manufactures, distributes, or sells a product that makes content accessible on the Internet is prohibited from doing business in this State unless

the product contains an active and operating digital blocking capability that renders any obscenity, as defined in Section [16-15-305](#), inaccessible.

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

- (1) make reasonable and ongoing efforts to ensure that the digital content blocking capability functions properly, including establishing a reporting mechanism such as a website or call center to allow for a consumer to report unblocked obscene content or report blocked content that is not obscene;
- (2) ensure that all child pornography and revenge pornography is inaccessible on the product;
- (3) prohibit the product from accessing any hub that facilitates prostitution; and
- (4) render websites that are known to facilitate any trafficking of persons, as defined in Section [16-3-2010](#)(9), inaccessible.

(C) This article does not apply to:

- (1) any product manufactured or sold prior to the effective date of this article;
- (2) 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.

Section [16-15-510](#). (A) Any digital blocking capability may be deactivated after the consumer:

- (1) requests in writing that the capability be disabled;
- (2) presents identification to verify that the consumer is eighteen years of age or older; and
- (3) acknowledges receiving a written warning regarding the potential danger of deactivating the digital blocking capability.

(B) Nothing in this article may be construed to prohibit a business from charging a fee to deactivate the blocking software for profit.

Section [16-15-520](#). (A) If the digital blocking capability blocks content that is not obscene and the block is reported to a call center or reporting website, the content must be unblocked within a reasonable time but in no event later than five business days after the block is reported.

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

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

Section [16-15-530](#). (A) A business or individual that violates the provisions of this article by manufacturing, distributing, or selling a product that makes content accessible on the Internet without the digital content blocking capability, intentionally and knowingly selling the product to a minor without activated filters, or providing the means to disable the digital content blocking capability is guilty of violating Sections [16-15-250](#), [16-15-345](#), and [16-15-385](#) and, upon conviction, is subject to the penalties provided by those sections.

(B) A business or individual who complies with the provisions of Section [16-15-510](#) is not subject to criminal liability for violating the provisions of this article.

Section [16-15-540](#). (A) The Office of Attorney General is authorized to seek injunctive relief against any business, manufacturer, wholesaler, or individual that manufactures, distributes, or sells any products in this

State that violates the provisions of this article.

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

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

(D) It is an affirmative defense in a civil action to a charge of violating this article that the dissemination of the content described in Sections [16-15-500](#), [16-15-305](#), [16-3-2010](#)(9) was limited to institutions or organizations having scientific, educational, or other similar justifications displaying material covered pursuant to the provisions of Section [16-15-500](#)."

SECTION 2. This act takes effect one year after approval by the Governor.

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