A BILL FOR

1 An Act relating to requirements for specific digital
2 content-blocking capabilities on devices manufactured,
3 distributed, leased, or sold and services distributed,
4 leased, or sold in the state that make the internet
5 accessible, the prohibition of certain restrictions on
6 specific types of speech on social media internet sites, and
7 the collection and remittance of fees for certain related
8 activities, providing for criminal and civil liability
9 for certain violations, and including applicability and
10 contingent effective date provisions.
11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. NEW SECTION. 710B.1 Short title.
This chapter shall be known and may be cited as the
"Modernization Decency Act".

Sec. 2. NEW SECTION. 710B.2 Definitions.
As used in this chapter, unless the context otherwise
requires:
1. "Adult live entertainment establishment" means a place
of business where commercial sexual activity, full or partial
nudity, sex acts, or sexually explicit performances may be
available for viewing by patrons of the establishment.
2. "Algorithm" means a process or set of rules to be
followed in calculations or other problem-solving operations,
especially by a computer.
3. "Child pornography" means the same as defined in 18
U.S.C. §2256(8).
4. "Commercial sexual activity" means the same as defined
in section 710A.1.
5. "Computer" means the same as defined in 18 U.S.C. §1030
(e)(1).
6. "Consumer" means an individual who purchases or leases a
device or purchases or leases a service that makes the internet
accessible from a person in this state that manufactures,
distributes, leases, or sells such a device or distributes,
leases, or sells such a service.
7. "Digital content-blocking capability" means hardware
or software that restricts or blocks internet access to
internet-based sites and internet-hosted content based on the
specific internet site or the category or type of content of
the internet-hosted content.
8. "Disseminate" means the same as defined in section 728.1.
9. "Facilitate" means to enable or to advance.
10. "Full or partial nudity" means the same as defined in
section 708.7.
11. "Human trafficking" means the same as defined in section
710A.1.
12. "Knowingly" means the same as defined in section 728.1.
13. "Minor" means the same as defined in section 728.1.
14. "Nongovernmental" means a charitable organization under section 501(c)(3) of the Internal Revenue Code that has as the organization's primary purpose ending sexual violence in the state. The organization may be involved with programs for the prevention of sexual violence, or providing technical assistance and support to youth and rape crisis centers.
15. "Obscene material" means the same as defined in section 728.1.
16. "Personal identifying information" means an unexpired student identification card, a valid social security card, an unexpired driver's license, an unexpired nonoperator's identification card, an unexpired passport, a certified copy of a birth certificate, or other valid, unexpired proof of identity.
17. "Photograph or film" means the same as defined in section 708.7.
18. "Place of business" means the same as defined in section 728.1.
19. "Political speech" means speech relating to social issues or to federal, state, or local government.
20. "Prostitution" means the same as described in section 725.1.
21. "Religious speech" means speech related to an individual's sincerely held religious, ethical, or moral beliefs.
22. "Revenge pornography" means a photograph or film showing another person in a state of full or partial nudity or engaged in a sex act that has been disseminated, published, distributed, or posted without the consent of the person in the photograph or film.
23. "Sex act" means the same as defined in section 702.17.
24. "Sexually explicit performance" means the same as defined in section 710A.1.
25. "Social media internet site" means an internet site or internet-based application that allows a user of the internet site or of the internet-based application to communicate with other users of the internet site or of the internet-based application via community-based input, interaction, content-sharing, or collaboration, and the internet site or the internet-based application meets all of the following requirements:

   a. Is owned or operated by a person in this state.
   b. Is available for use by the general public.
   c. Has more than seventy-five million registered users.
   d. Has not been specifically affiliated with any one religion or any one political party since the internet site or internet-based application became available to the general public.
   e. Has a policy and procedure for users to report obscene material and for the removal of user reported obscene material from the internet site or the internet-based application.

26. "User" means a natural person who utilizes or makes use of a social media internet site.

Sec. 3. NEW SECTION. 710B.3 Digital content-blocking capability requirement.

A person in this state that manufactures, distributes, leases, or sells a device or that distributes, leases, or sells a service that makes the internet accessible to a consumer shall not manufacture, distribute, lease, or sell the device or distribute, lease, or sell the service without an active and operating digital content-blocking capability that blocks all internet sites that contain any of the following:

1. Obscene material.
2. Revenge pornography.
3. Sexual exploitation of a minor as described in section 728.12.
4. Promotion or facilitation of prostitution.
5. Promotion or facilitation of human trafficking.

Sec. 4. NEW SECTION. 710B.4 Duty to maintain appropriate functioning of digital content-blocking capabilities.

A person in this state that manufactures, distributes, leases, or sells a device or that distributes, leases, or sells a service that makes the internet accessible to a consumer of the device or service shall do all of the following:

1. Make reasonable and ongoing efforts to ensure proper functioning of the digital content-blocking capability in all devices manufactured, distributed, leased, or sold and in all services distributed, leased, or sold.

2. Provide routine digital content-blocking updates to a consumer who has purchased or leased a device or service containing digital content-blocking to ensure the ongoing quality and performance of the digital content-blocking.

3. Establish a telephone call center or internet site for a consumer to report a failure of the digital content-blocking requirements of this chapter or to report digital content-blocking of an internet site not subject to the requirements of section 710B.3.

4. Report any reports of child pornography received through a telephone call center or internet site to the national center for missing and exploited children cybertipline.

5. Investigate a consumer's report of a violation of this chapter and provide the consumer an appropriate digital content-blocking update within thirty days of the consumer's initial report if a violation of section 710B.3 has occurred.

6. Investigate a consumer's initial report of digital content-blocking of an internet site not subject to the requirements of section 710B.3 and, if appropriate, enable the consumer's access to the internet site within thirty days of the consumer's initial report.

Sec. 5. NEW SECTION. 710B.5 Prohibition on digital content-blocking of certain internet sites.

A person in this state that manufactures, distributes,
leases, or sells a device or that distributes, leases, or sells a service that makes the internet accessible to a consumer of the device or service shall not use digital content-blocking on any such device or service to make any of the following internet sites inaccessible:

1. A social media internet site.

2. An internet site not specified in section 710B.3.

3. An internet site that has the primary function of serving as a search engine.

4. An internet site that makes movies available that are rated restricted or below by the classification and ratings administration of the motion picture association of America.

Sec. 6. NEW SECTION. 710B.6 Restrictions on deactivation of digital content-blocking capability.

1. A person in this state that manufactures, distributes, leases, or sells a device or that distributes, leases, or sells a service that makes the internet accessible shall not share, sell, or distribute a method, source code, or any other instruction to deactivate the digital content-blocking capability of the device or service unless all of the following apply:

a. A consumer who purchased the device or service submits a written request for deactivation.

b. The consumer provides personal identifying information that proves the consumer is eighteen years of age or older.

c. The manufacturer, distributor, lessor, or seller of the device or the distributor, lessor, or seller of the service provides the consumer with a written warning that outlines the dangers of deactivation. The attorney general shall adopt by rule pursuant to chapter 17A a written warning which may be used in substantial form by any person required to provide the written warning to a consumer as provided in this paragraph.

d. The consumer signs an acknowledgment that a written warning has been provided.

e. The consumer pays a one-time twenty dollar deactivation
fee to be deposited into the human trafficking and child
exploitation prevention fund established pursuant to section
710B.7.
2. A person in this state that manufactures, distributes,
leases, or sells a device or that distributes, leases, or sells
a service that makes the internet accessible to a consumer
may charge the consumer an additional fee in order for the
manufacturer, distributor, lessor, or seller to deactivate the
digital content-blocking capability of the device or service.
The fee must be reasonable and the manufacturer, distributor,
lessor, or seller may retain the fee.
Sec. 7. NEW SECTION. 710B.7 Human trafficking and child
exploitation prevention fund.
1. A manufacturer, distributor, lessor, or seller of
a device or a distributor, lessor, or seller of a service
that makes the internet accessible shall annually remit all
deactivation fees collected under section 710B.6, subsection
1, paragraph "e", to the treasurer of state in the manner
prescribed by the treasurer of state.
2. An adult live entertainment establishment shall remit
all adult live entertainment establishment fees collected
pursuant to section 710B.10 to the treasurer of state in the
manner prescribed by the treasurer of state.
3. The treasurer of state shall adopt rules pursuant to
chapter 17A to administer subsections 1 and 2.
4. A human trafficking and child exploitation prevention
fund is created in the state treasury as a separate fund under
the control of the department of justice. All moneys deposited
or paid into the fund pursuant to subsections 1 and 2, and
all gifts, grants, donations, and bequests deposited into the
fund, are appropriated and made available to the department
of justice to be used for administration of the fund and to
provide grants to governmental and nongovernmental entities
and individuals involved with upholding community standards of
decency, strengthening families, or developing, expanding, or
strengthening programs for child victims of human trafficking, to be used for any of the following:

a. Rape kit testing.
b. Physical and mental health services.
c. Temporary and permanent housing or shelter.
d. Employment, education, and job training.
e. Training first responders and educational campaigns for the public to increase awareness to prevent, and to protect victims of, human trafficking, domestic violence, prostitution, child abuse, and rape.
f. Medical examination costs pursuant to section 915.41.
g. The department of justice’s prosecutor-based victim service coordination, including the duties defined in sections 910.3 and 910.6.
h. Awarding funds to programs that provide services and support to victims of domestic abuse pursuant to chapter 236.
i. Victims of sexual abuse as provided in chapter 236A.
j. Reimbursement to the Iowa law enforcement academy for domestic abuse and human trafficking training.
k. Support of an automated victim notification system pursuant to section 915.10A.
l. Training for victim service providers.
m. Victim service programming.
n. Training concerning homicide, domestic assault, sexual assault, stalking, and harassment.
o. To conduct outreach, public awareness, and training on human trafficking pursuant to section 710A.6.
p. To support technology in rape crisis centers.
q. Family counseling.
r. Creative arts that do not contain or promote obscene material.
s. Support of the office to combat human trafficking as established pursuant to section 80.45.
t. State agency support programs assisting victims of human trafficking.
1  u. Support of the state's initiatives on human trafficking,
2  programs upholding community standards of decency, and state
3  security.
4  v. Human trafficking enforcement programs.
5  5. Interest on the fund shall be deposited into the fund.
6  A portion of the interest in the fund, not to exceed fifteen
7  percent of the total interest accrued, shall be used for
8  administration of the fund.
9  6. Notwithstanding section 8.33, any balance in the fund on
10  June 30 of any fiscal year shall not revert to the general fund
11  of the state.
12  7. On or before February 15, the attorney general shall
13  submit an annual report to the general assembly that includes
14  all of the following information as related to the fund:
15  a. The total amount of deactivation fees deposited into the
16  fund pursuant to subsection 1.
17  b. The total amount of adult live entertainment
18  establishment fees deposited into the fund pursuant to
19  subsection 2.
20  c. Each recipient of a grant from the fund and the purpose
21  of each grant.
22  Sec. 8. NEW SECTION. 710B.8 Criminal liability.
23  1. A person in this state that knowingly manufactures,
24  distributes, leases, or sells a device or that knowingly
25  distributes, leases, or sells a service that makes the internet
26  accessible and that is in violation of section 710B.3 or 710B.6
27  shall be subject to a scheduled violation of one thousand
28  dollars for a first offense and two thousand five hundred
29  dollars for a second offense.
30  2. A person in this state that knowingly manufactures,
31  distributes, leases, or sells a device or that knowingly
32  distributes, leases, or sells a service that makes the internet
33  accessible and that is in violation of section 710B.3 or 710B.6
34  three or more times commits a simple misdemeanor.
35  3. A person in this state that knowingly manufactures,
distributes, leases, or sells a device or that knowingly distributes, leases, or sells a service that makes the internet accessible and that violates section 710B.3 or 710B.6 commits an unfair or deceptive trade practice in violation of section 714.16, subsection 2, paragraph "a".

4. The affirmative defense specified in section 728.10 shall apply to this section.

Sec. 9. NEW SECTION. 710B.9 Civil cause of action and injunctive relief.

1. A consumer who purchases a device or service from a person in this state that manufactures, distributes, leases, or sells a device or that distributes, leases, or sells a service that makes the internet accessible may bring a civil action seeking relief and recover up to five hundred dollars in damages per reported failure plus reasonable attorney fees and court costs if the person’s violation is substantiated pursuant to an investigation conducted under section 710B.4, subsection 5.

2. The attorney general or county attorney may seek injunctive relief if a person in this state that manufactures, distributes, leases, or sells a device or that distributes, leases, or sells a service that makes the internet accessible to a consumer of the device or service violates section 710B.3 or 710B.4.

3. It shall be an affirmative defense in a civil action pursuant to this section that a consumer purchased or leased a device or service that makes the internet accessible from a person in this state that manufactures, distributes, leases, or sells such a device or that distributes, leases, or sells such a service, and the device or service did not digitally block content pursuant to the requirements of section 710B.3 because the internet site that is not blocked is the registered domain of an institution or organization that has a scientific, educational, artistic, literary, or similar justification for making the content specified in section 710B.3 accessible.
Sec. 10. NEW SECTION. 710B.10 Adult live entertainment establishment fee.

1. Each adult live entertainment establishment located in the state shall collect a five dollar fee from each individual allowed entry into the establishment for purposes of adult live entertainment.

2. All fees collected pursuant to subsection 1 shall be deposited into the human trafficking and child exploitation prevention fund pursuant to section 710B.7, subsection 2.

3. The director of revenue shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 11. NEW SECTION. 710B.11 Social media censorship — civil cause of action.

1. A user of a social media internet site who is eighteen years of age or older may bring a civil cause of action seeking relief and recover up to seventy-five thousand dollars in damages per violation, plus reasonable attorney fees and court costs, if the social media internet site is found liable in a court of competent jurisdiction of knowingly doing any of the following on the social media internet site:

   a. Censoring the user’s religious speech or political speech.

   b. Using an algorithm to suppress the user’s religious speech or political speech.

2. It shall be an affirmative defense in a civil action pursuant to this section that the social media internet site ceased censoring a user’s religious speech or political speech, or discontinued use of an algorithm to suppress a user’s religious speech or political speech, in a reasonable amount of time after an allegation of censorship has been reported by a user to the social media internet site.

3. It shall not be an affirmative defense in a civil action pursuant to this section that the social media internet site censored a user’s religious speech or political speech because of alleged hate speech by the user.
4. The attorney general or county attorney may seek injunctive relief on behalf of a social media internet site user whose religious speech or political speech has been censored by a social media internet site.

5. This section does not apply to any of the following:
   a. A social media internet site that censors a user's religious speech or political speech or that uses an algorithm to suppress a user's religious speech or political speech that is any of the following:
      (1) Calls for an act of violence.
      (2) Obscene or pornographic in nature.
      (3) Originates from an inauthentic source or involves false impersonation.
      (4) Incites criminal conduct.
   b. A social media internet site that censors a user's religious speech or political speech or that uses an algorithm to suppress a user's religious speech or political speech, either through error or in response to a court order.
   c. A user of a social media internet site censoring the religious speech or political speech of another user of the social media internet site.

Sec. 12. NEW SECTION. 710B.12 Applicability.

1. The sections of this Act relating to persons in this state that manufacture, distribute, lease, or sell a device or that distribute, lease, or sell a service that makes the internet accessible to a consumer applies to a person in this state that manufactures, distributes, leases, or sells the device or that distributes, leases, or sells a service on or after the effective date of this Act.
2. The sections of this Act relating to persons in this state that manufacture, distribute, lease, or sell a device or that distribute, lease, or sell a service that makes the internet accessible to a consumer do not apply to a person in this state that manufactures, distributes, leases, or sells a device or that distributes, leases, or sells a service that makes the internet accessible to a consumer if the device or service was produced, sold, leased, or purchased prior to the effective date of this Act.

3. The sections of this Act relating to persons in this state that manufacture, distribute, lease, or sell a device or that distribute, lease, or sell a service that makes the internet accessible to a consumer do not apply to any of the following:

   a. The sale of a device or service that makes the internet accessible to a consumer by a person that is not regularly engaged in the business of selling devices or services that make the internet accessible.

   b. The owner or operator of an independent third-party router that is not affiliated with an internet service provider.

   c. A person that is not subject to the jurisdiction of the state that manufactures, distributes, leases, or sells a device or that distributes, leases, or sells a service that makes the internet accessible to a consumer.

Sec. 13. CONTINGENT EFFECTIVE DATE. This Act takes effect upon enactment of substantially similar legislation by four additional states. Within ten business days of enactment of substantially similar legislation by the fourth state of the four additional states, the attorney general shall advise the governor and the Iowa Code editor of the effective date of this Act.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
This bill relates to requirements for specific digital content-blocking capabilities on devices manufactured, distributed, leased, or sold and services distributed, leased, or sold in the state that make the internet accessible, the prohibition of certain restrictions on specific types of speech on social media internet sites, and the collection and remittance of fees for certain activities, and provides for criminal and civil liability.

The bill prohibits a person that manufactures, distributes, leases, or sells a device or that distributes, leases, or sells a service from manufacturing, distributing, leasing, or selling the device or that distributes, leases, or sells the service without an active and operating digital content-blocking capability that blocks any internet site that contains material that is obscene, constitutes sexual exploitation of a minor, promotes or facilitates prostitution, promotes or facilitates human trafficking, contains child pornography, or contains revenge pornography.

The bill requires such a person to make reasonable and ongoing efforts to ensure proper functioning of the digital content-blocking capability, to provide routine updates for the digital content-blocking to a consumer who has purchased or leased a device or service containing digital content-blocking, to establish a call center or internet site that allows consumers to report a failure of the digital content-blocking or to report digital content-blocking of an internet site that is not required to be blocked. In addition, such a person is required to investigate a consumer’s report of a failure to comply with the bill, provide the consumer an appropriate update of the digital content-blocking capability within 30 days of the consumer’s initial report, investigate any consumer report of digital content-blocking of an internet site that is not required to be blocked, and if appropriate, enable the consumer’s access to the incorrectly blocked internet site within 30 days of the consumer’s initial report.
The bill prohibits digital content-blocking of social media internet sites that have existing processes to manage consumer complaints or digital content-blocking of any internet site that does not contain the following material: 1) obscene material, 2) revenge pornography, 3) sexual exploitation of a minor, 4) child pornography, or 5) the promotion or facilitation of prostitution or human trafficking. The bill also prohibits digital content-blocking of an internet site that has the primary function of serving as a search engine or an internet site that makes movies available that are rated restricted or below.

The bill prohibits a manufacturer, distributor, lessor, or seller from sharing, selling, or distributing a method, source code, or any other instruction to deactivate a digital content-blocking capability unless a consumer who purchases a product submits a written request for deactivation, provides proof the consumer is age 18 or older, signs an acknowledgment that a written warning outlining the dangers of deactivation has been provided by the manufacturer, distributor, lessor, or seller, and pays a one-time $20 deactivation fee. The bill also allows a manufacturer, distributor, lessor, or a seller to charge a consumer an additional fee in order for the manufacturer, distributor, lessor, or seller to deactivate the digital content-blocking capability of the product. The fee must be reasonable and the manufacturer, distributor, lessor, or seller may retain the fee.

The manufacturer, distributor, lessor, or seller must annually remit all deactivation fees that are collected to the treasurer of state. The treasurer of state shall deposit all deactivation fees received into the human trafficking and child exploitation prevention fund established in the bill. All moneys deposited or paid into the fund are appropriated and made available to the department of justice to be used to provide grants to governmental and nongovernmental entities and individuals involved with upholding community standards of
1 decency, strengthening families, or developing, expanding, or
2 strengthening programs for child victims of human trafficking
3 to be used for any of the purposes specified in the bill.
4 A person in this state that knowingly manufactures,
5 distributes, leases, or sells a device or that knowingly
6 distributes, leases, or sells a service that makes the internet
7 accessible and that violates a provision of the bill related to
8 digital content-blocking is subject to a scheduled violation
9 of $1,000 for a first offense and $2,500 for a second offense,
10 and commits a simple misdemeanor if the person commits three or
11 more offenses. A person also commits an unfair or deceptive
12 trade practice by violating a provision of the bill related to
13 digital content-blocking.
14 The bill provides for a civil cause of action if a person
15 that manufactures, distributes, leases, or sells a device
16 or that distributes, leases, or sells a service that makes
17 the internet accessible does not respond appropriately to a
18 consumer’s report of a failure of the digital content-blocking
19 capability requirement. A consumer that purchased the product
20 may bring a civil action seeking relief and recover up to $500
21 in damages per reported failure, plus reasonable attorney fees
22 and court costs. The attorney general or county attorney may
23 seek injunctive relief if devices or services are sold or
24 leased without the required digital content-blocking or the
25 manufacturer, distributor, or if a seller fails to maintain the
26 digital content-blocking capabilities or fails to respond as
27 required to a consumer complaint.
28 It is an affirmative defense in a civil action asserting
29 that a consumer purchased a device or service that makes
30 the internet accessible from a person in this state that
31 manufactures, distributes, leases, or sells such a device or
32 that distributes, leases, or sells such a service that the
33 device or service did not digitally block content as required
34 by the bill or that the internet site that is not blocked is
35 the registered domain of an institution or organization that
has a scientific, educational, artistic, literary, or similar justification for making the content accessible.

The bill requires each adult live entertainment establishment located in the state to collect a $5 fee from each individual allowed entry into the establishment for purposes of adult live entertainment. "Adult live entertainment establishment" is defined in the bill as a place of business where commercial sexual activity, full or partial nudity, sex acts, or sexually explicit performances may be available for viewing by patrons of the establishment. All of the collected fees must be deposited in the human trafficking and child exploitation prevention fund. The director of revenue is required to adopt rules to administer the collection and deposit of such fees.

The bill allows a user of a social media internet site who is 18 years of age or older to bring a civil cause of action seeking relief, and to recover up to $75,000 in damages per violation, if the social media internet site is found liable in a court of competent jurisdiction of knowingly censoring the user's religious or political speech or of using an algorithm to suppress the user's religious or political speech. "Social media internet site", "religious speech", and "political speech" are defined in the bill. It is an affirmative defense in a civil action that the social media internet site ceased censoring a user's religious or political speech, or discontinued use of an algorithm to suppress a user's religious or political speech, in a reasonable amount of time after an allegation of censorship has been reported by a user to the social media internet site. It is not an affirmative defense that the social media internet site censored a user's religious or political speech because of alleged hate speech by the user.

The attorney general or county attorney may seek injunctive relief on behalf of a social media internet site user whose religious speech or political speech has been censored by a social media internet site.
The bill allows a social media internet site to censor a user’s speech or to use an algorithm to suppress a user’s speech if the speech calls for an act of violence, is obscene or pornographic in nature, originates from an inauthentic source or involves false impersonation, incites criminal conduct, or involves bullying. “Bullying” is defined in the bill.

A social media internet site that censors a user’s speech or uses an algorithm to suppress a user’s speech through error or in response to a court order is not civilly liable. A social media internet site is also not civilly liable if a user of the social media internet site censors the political or religious speech of another user of the social media internet site.

The sections of the bill relating to persons in this state that manufacture, distribute, lease, or sell a device or that distribute, lease, or sell a service that makes the internet accessible to a consumer applies to a person in this state that manufactures, distributes, leases, or sells such a device or that distributes, leases, or sells such a service on or after the effective date of the provisions in the bill.

The sections of the bill relating to persons in this state that manufacture, distribute, lease, or sell a device or that distribute, lease, or sell a service that makes the internet accessible to a consumer do not apply to a person in this state that manufactures, distributes, leases, or sells a device or that distributes, leases, or sells a service that makes the internet accessible to a consumer if the device or service was produced, sold, leased, or purchased prior to the effective date of the provisions in the bill.

The sections of the bill relating to persons in this state that manufacture, distribute, lease, or sell a device or that distribute, lease, or sell a service that makes the internet accessible to a consumer do not apply to the sale of a device or service that makes the internet accessible to a consumer by a person that is not regularly engaged in the business of
1 selling devices or services that make the internet accessible, 
2 the owner or operator of an independent third-party router 
3 that is not affiliated with an internet service provider, or 
4 a person that is not subject to the jurisdiction of the state 
5 that manufactures, distributes, leases, or sells a device or 
6 that distributes, leases, or sells a service that makes the 
7 internet accessible to a consumer. 
8 The provisions of the bill take effect upon enactment 
9 of substantially similar legislation by four additional 
10 states. Within 10 days of enactment of substantially similar 
11 legislation by the fourth state of the four additional states, 
12 the attorney general must advise the governor and the Iowa Code 
13 editor of the effective date of the provisions of the bill.