

By: Representative Arnold

To: Interstate Cooperation;
Judiciary B

HOUSE BILL NO. 1116

1 AN ACT TO AUTHORIZE THE STATE OF MISSISSIPPI TO ENTER INTO AN
2 INTERSTATE COMPACT WITH SOUTHERN STATES FOR THE PURPOSE OF
3 CONSTITUTING AN AREA OF MORAL DECENCY, BY BANNING INTERNET AND
4 WEB-BASED PORNOGRAPHIC CONTENT; TO ESTABLISH THE INTERSTATE
5 COMMISSION ON OBSCENITIES PROHIBITION AND PRESCRIBE ITS POWERS AND
6 DUTIES; AND FOR RELATED PURPOSES.

7 **SECTION 1.** The following compact of the southern states for
8 the purpose of constituting an area of moral decency, by banning
9 Internet and web-based pornographic content in the southern
10 states, and the same is, hereby ratified and approved:

11 WHEREAS, each day, countless people are exposed to sexually
12 explicit content through a wide range of media, often unaware of
13 the health risks posed by such material; and

14 WHEREAS, as it perpetuates a sexually toxic environment,
15 pornography is a public health hazard leading to a broad spectrum
16 of individual, public and societal harms, and efforts to prevent
17 pornography exposure and addiction, to educate individuals and
18 families concerning its harms, and to develop recovery programs
19 must be addressed systemically in ways that hold broader
20 influences accountable; and



21 WHEREAS, due to advances in technology and the universal
22 availability of the Internet, young children are exposed to what
23 used to be referred to as hard core, but is now considered
24 mainstream, pornography at an alarming rate, and this exposure is
25 contributing to the hypersexualization of teens, and even
26 prepubescent children, in our society; and

27 WHEREAS, the average age of exposure to pornography is now 11
28 to 12 years of age, often serving as youth's sex education and
29 shaping their sexual templates, and is leading to low self-esteem
30 and body image disorders, an increase in problematic sexual
31 activity at younger ages and an increased desire among adolescents
32 to engage in risky sexual behavior; and

33 WHEREAS, besides promoting unhealthy sexual expectations,
34 pornography equates violence towards women with sex and pain with
35 pleasure, objectifying women and teaching girls they are to be
36 used, and teaching boys to be users, as well as depicting rape and
37 abuse as if they were harmless, and by associating violence with
38 sexual gratification, these materials perpetuate the demand for
39 sex trafficking, prostitution, sexual abuse images and child
40 pornography; and

41 WHEREAS, with its potential detrimental effects on users,
42 pornography can impact brain development and functioning,
43 contribute to emotional and medical illnesses, shape deviant
44 sexual arousal and lead to difficulty in forming or maintaining



45 intimate relationships, as well as problematic or harmful sexual
46 behaviors and addiction; and

47 WHEREAS, recent research indicates that pornography is
48 potentially biologically addictive, which means the user requires
49 more novelty, often in the form of more shocking material, in
50 order to be satisfied; and

51 WHEREAS, this biological addiction leads to increasing themes
52 of risky sexual behaviors, extreme degradation, violence, child
53 sexual abuse images and child pornography, and it is also linked
54 to a lessening desire in young men to marry, dissatisfaction in
55 marriage, and infidelity, which is tremendously detrimental to the
56 family unit; and

57 WHEREAS, overcoming the substantial negative impact of
58 pornography is beyond the capability of the afflicted individual
59 to address alone, and its ubiquity has resulted in a host of
60 societal problems and potentially negative health effects, which
61 makes it of paramount importance that our leaders tackle this
62 critical health issue; NOW, THEREFORE,

63 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

64 **ARTICLE I**

65 **PURPOSE**

66 In consideration of the mutual agreements, covenants and
67 obligations assumed by the respective states who are parties
68 hereto (hereinafter referred to as "states"), the said several
69 states do hereby form a geographical district or region consisting



70 of the areas lying within the boundaries of the contracting states
71 which, for the purposes of this compact, shall constitute an area
72 of moral decency, wherein the states which are parties hereto:

73 (a) Establish ongoing duties for retailers of Internet
74 enabled devices;

75 (b) Require retailers of Internet enabled devices to
76 equip products with an active filter prior to sale that blocks by
77 default websites that are known to facilitate the display of child
78 pornography, revenge pornography, obscene material harmful to
79 minors or any other sexually explicit material regulated under the
80 Federal Law on Obscenity (18 USCS Section 1460, et seq.); and

81 (c) Provide that blocking capability may be disabled.

82 **ARTICLE II**

83 **THE COMMISSION**

84 The states do further hereby establish and create a joint
85 commission which shall be known as the Interstate Commission on
86 Obscenities Prohibition (hereinafter referred to as the
87 "commission"), the members of which commission shall consist of
88 the governor of each state, who shall serve in an ex officio
89 capacity, and four (4) additional citizens of each state to be
90 appointed by the governor thereof, at least one (1) of whom shall
91 be a member of the Legislature of that state. The governor shall
92 continue as a member of the commission during his tenure of office
93 as governor of the state, but the members of the commission
94 appointed by the governor shall hold office for a period of four



95 (4) years, except that in the original appointment one (1)
96 commissioner so appointed by the governor shall be designated at
97 the time of his appointment to serve an initial term of three (3)
98 years, but thereafter his successor shall serve the full term of
99 four (4) years. Vacancies on the commission caused by death,
100 resignation, refusal or inability to serve, shall be filled by
101 appointment by the governor for the unexpired portion of the term.
102 The officers of the commission shall be a chairman, a vice
103 chairman, a secretary, a treasurer and such additional officers as
104 may be created by the commission from time to time.

105 **ARTICLE III**

106 **POWERS AND DUTIES OF THE COMMISSION**

107 A. It shall be the duty of the commission to submit plans
108 and recommendations to the states from time to time for their
109 approval and adoption by appropriate legislative action for
110 banning the dissemination of Internet and web-based pornographic
111 content, which regulated under the Federal Law on Obscenity (18
112 USCS Section 1460, et seq.), within the geographical limits of the
113 regional area of the states and for such other related purposes,
114 as they may deem and determine to be proper, necessary or
115 advisable.

116 B. In addition to the power and authority heretofore
117 granted, the commission shall have the power to enter into such
118 agreements or arrangements with any of the states and with any
119 institutions or agencies, as may be required in the judgment of



120 the commission, to provide adequate services for the benefit of
121 the citizens of the respective states residing within the region.

122 C. The commission shall have such additional and general
123 power and authority as may be vested in it by the states from time
124 to time by legislative enactments of the said states.

125 D. Any two (2) or more states which are parties of this
126 compact shall have the right to enter into supplemental agreements
127 for the benefit of citizens residing within an area which
128 constitutes a portion of the general region herein created, such
129 agreements to be governed exclusively by such states and to be
130 controlled exclusively by the members of the commission
131 representing such states, provided such agreement is submitted to
132 and approved by the commission prior to the establishment of such
133 agreements.

134 **ARTICLE IV**

135 **ELIGIBLE PARTIES AND ENTRY INTO FORCE**

136 This compact shall not take effect or be binding upon any
137 state unless and until it shall be approved by proper legislative
138 action of as many as six (6) or more of the states whose governors
139 have subscribed hereto within a period of eighteen (18) months
140 from the date hereof. When and if six (6) or more states shall
141 have given legislative approval to this compact within said
142 eighteen (18) months period, it shall be and become binding upon
143 such six (6) or more states sixty (60) days after the date of
144 legislative approval by the sixth state and the governors of such



145 six (6) or more states shall name the members of the commission
146 from their states as prescribed in paragraph (a) of the section,
147 and the commission shall then meet on call of the governor of any
148 state approving this compact, at which time the commission shall
149 elect officers, adopt bylaws, appoint committees and otherwise
150 fully organize. Other states whose names are subscribed hereto
151 shall thereafter become parties hereto upon approval of this
152 compact by legislative action within two (2) years from the date
153 hereof, upon such conditions as may be agreed upon at the time.

154 **ARTICLE V**

155 **WITHDRAWAL, DEFAULT, AND TERMINATION**

156 A. After becoming effective this compact shall thereafter
157 continue without limitation of time. However, it may be
158 terminated at any time by unanimous action of the states and
159 provided, further, that any state may withdraw from this compact
160 if such withdrawal is approved by its Legislature, such withdrawal
161 to become effective two (2) years after written notice thereof to
162 the commission accompanied by a certified copy of the requisite
163 legislative action, but such withdrawal shall not relieve the
164 withdrawing state from its obligations hereunder accruing up to
165 the effective date of such withdrawal. Any state so withdrawing
166 shall ipso facto cease to have any claim to or ownership of any of
167 the property held or vested in the commission or to any of the
168 funds of the commission held under the terms of this compact.



194 By _____ By _____
195 Governor Governor
196 State of Georgia, State of Arkansas,
197 By _____ By _____
198 Governor Governor
199 State of Louisiana, State of Alabama,
200 By _____ By _____
201 Governor Governor
202 State of Mississippi, Commonwealth of Kentucky,
203 By _____ By _____
204 Governor Governor
205 State of Oklahoma,
206 By _____
207 Governor

208 **SECTION 2.** (1) The Legislature finds that:

209 (a) The United States Supreme Court in *Ashcroft v. Am.*
210 *Civil Liberties Union*, 542 U.S. 656 (2004) found that the
211 legislative branch "may undoubtedly act to encourage the use of
212 filters ... It could also take steps to promote their development
213 by industry, and their use by parents," which was the Supreme
214 Court's way of signaling to the legislative branch to pass filter
215 legislation that requires consumers to opt-in to having access to
216 obscene materials that are harmful to minors on Internet enabled
217 devices, since filters are the least restrictive means.



218 (b) The United States Supreme Court found in *Ginsberg v.*
219 *New York*, 390 U.S. 629 (1968) that a physical display state
220 statute that required physical bricks and mortar stores to put
221 physical obscene material behind a physical blinder rack was
222 constitutional under first amendment heightened scrutiny, which
223 means that a digital blinder rack statute that requires digital
224 retailers to put digital obscene material behind a digital blinder
225 rack is also Constitutional on the same legal basis.

226 (c) Because the Supreme Court of the United States in
227 *Paris Adult Theatre I v. Slaton*, 413 US 49 (1973) made it clear
228 that the states have a compelling interest to uphold community
229 standards of decency, a statute requiring a filter deactivation
230 fee regarding websites displaying obscene material and an adult
231 service business admission fee are constitutional for being
232 rationally related to a narrowly tailored compelling state
233 interest.

234 (d) The Texas Supreme Court in *Combs v. Texas*
235 *Entertainment Association, et al.*, 347 S.W.3d 277 (Sup. Ct. Tex.
236 2011), relying on Federal Constitutional law, found that a statute
237 that required a five-dollar admission fee to an adult service
238 business that was to be remitted back to the state to enable the
239 state to uphold community standards of decency was constitutional
240 under First Amendment heightened scrutiny, which means that a
241 one-time twenty-dollar-filter deactivation fee to enter the
242 digital strip club on Internet enabled devices is Constitutional



243 on the same legal basis, if remitted to the state to be used in
244 the same manner.

245 (e) Sex trafficking has moved from the street corner to
246 the smart phone, which means that making websites that facilitate
247 human trafficking and prostitution inaccessible by default on
248 Internet enabled devices will do more to curb the demand for such
249 offenses more so than any other measure since the inception of the
250 Internet.

251 (f) The State of Mississippi has a compelling interest
252 in holding certain social media websites to higher standards for
253 having substantially created a digital public square.

254 (g) The State of Mississippi has an interest in helping
255 its citizens enjoy their free exercise rights in certain
256 semi-public forums commonly used for religious and political
257 speech, regardless of which political party or religious
258 organization they ascribe to.

259 **SECTION 3.** This act shall take effect and be in force from
260 and after July 1, 2020.

