MISSISSIPPI LEGISLATURE

By: Representative Arnold

REGULAR SESSION 2020
To: Interstate Cooperation; Judiciary B

HOUSE BILL NO. 1116

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

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

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

WHEREAS, as it perpetuates a sexually toxic environment,
pornography is a public health hazard leading to a broad spectrum
of individual, public and societal harms, and efforts to prevent
pornography exposure and addiction, to educate individuals and
families concerning its harms, and to develop recovery programs
must be addressed systemically in ways that hold broader
influences accountable; and
WHEREAS, due to advances in technology and the universal availability of the Internet, young children are exposed to what used to be referred to as hard core, but is now considered mainstream, pornography at an alarming rate, and this exposure is contributing to the hypersexualization of teens, and even prepubescent children, in our society; and

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

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

WHEREAS, with its potential detrimental effects on users, pornography can impact brain development and functioning, contribute to emotional and medical illnesses, shape deviant sexual arousal and lead to difficulty in forming or maintaining
intimate relationships, as well as problematic or harmful sexual behaviors and addiction; and

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

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

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

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

ARTICLE I

PURPOSE

In consideration of the mutual agreements, covenants and obligations assumed by the respective states who are parties hereto (hereinafter referred to as "states"), the said several states do hereby form a geographical district or region consisting
of the areas lying within the boundaries of the contracting states
which, for the purposes of this compact, shall constitute an area
of moral decency, wherein the states which are parties hereto:

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

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

(c) Provide that blocking capability may be disabled.

ARTICLE II

THE COMMISSION

The states do further hereby establish and create a joint
commission which shall be known as the Interstate Commission on
Obscenities Prohibition (hereinafter referred to as the
"commission"), the members of which commission shall consist of
the governor of each state, who shall serve in an ex officio
capacity, and four (4) additional citizens of each state to be
appointed by the governor thereof, at least one (1) of whom shall
be a member of the Legislature of that state. The governor shall
continue as a member of the commission during his tenure of office
as governor of the state, but the members of the commission
appointed by the governor shall hold office for a period of four
(4) years, except that in the original appointment one (1) commissioner so appointed by the governor shall be designated at the time of his appointment to serve an initial term of three (3) years, but thereafter his successor shall serve the full term of four (4) years. Vacancies on the commission caused by death, resignation, refusal or inability to serve, shall be filled by appointment by the governor for the unexpired portion of the term. The officers of the commission shall be a chairman, a vice chairman, a secretary, a treasurer and such additional officers as may be created by the commission from time to time.

**ARTICLE III**

**POWERS AND DUTIES OF THE COMMISSION**

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

B. In addition to the power and authority heretofore granted, the commission shall have the power to enter into such agreements or arrangements with any of the states and with any institutions or agencies, as may be required in the judgment of
the commission, to provide adequate services for the benefit of the citizens of the respective states residing within the region.

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

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

ARTICLE IV

ELIGIBLE PARTIES AND ENTRY INTO FORCE

This compact shall not take effect or be binding upon any state unless and until it shall be approved by proper legislative action of as many as six (6) or more of the states whose governors have subscribed hereto within a period of eighteen (18) months from the date hereof. When and if six (6) or more states shall have given legislative approval to this compact within said eighteen (18) months period, it shall be and become binding upon such six (6) or more states sixty (60) days after the date of legislative approval by the sixth state and the governors of such
six (6) or more states shall name the members of the commission from their states as prescribed in paragraph (a) of the section, and the commission shall then meet on call of the governor of any state approving this compact, at which time the commission shall elect officers, adopt bylaws, appoint committees and otherwise fully organize. Other states whose names are subscribed hereto shall thereafter become parties hereto upon approval of this compact by legislative action within two (2) years from the date hereof, upon such conditions as may be agreed upon at the time.

**ARTICLE V**

**WITHDRAWAL, DEFAULT, AND TERMINATION**

A. After becoming effective this compact shall thereafter continue without limitation of time. However, it may be terminated at any time by unanimous action of the states and provided, further, that any state may withdraw from this compact if such withdrawal is approved by its Legislature, such withdrawal to become effective two (2) years after written notice thereof to the commission accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing state from its obligations hereunder accruing up to the effective date of such withdrawal. Any state so withdrawing shall ipso facto cease to have any claim to or ownership of any of the property held or vested in the commission or to any of the funds of the commission held under the terms of this compact.
B. If any state shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said state as authorized by and in compliance with the terms and provisions of this compact, all rights, privileges and benefits of such defaulting state, its members on the commission and its citizens shall ipso facto be and become suspended from and after the date of such default. Unless such default shall be remedied and made good within a period of one (1) year immediately following the date of such default this compact may be terminated with respect to such defaulting state by an affirmative vote of three-fourths (3/4) of the members of the commission (exclusive of the members representing the state in default), from and after which time such state shall cease to be a party to this compact and shall have no further claim to or ownership of any of the property held by or vested in the commission or to any of the funds of the commission held under the terms of this compact, but such termination shall in no manner release such defaulting state from any accrued obligation or otherwise affect this compact or the rights, duties, privileges or obligations of the remaining states thereunder.

C. In witness whereof this compact has been approved and signed by the governors of the several states, subject to the approval of their respective legislatures in the manner prescribed in this section, as of the _____ day of _____________, 2020.

State of Tennessee, 

State of West Virginia,
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. Civil Liberties Union*, 542 U.S. 656 (2004) found that the
210                  legislative branch "may undoubtedly act to encourage the use of filters ... It could also take steps to promote their development by industry, and their use by parents," which was the Supreme Court's way of signaling to the legislative branch to pass filter legislation that requires consumers to opt-in to having access to obscene materials that are harmful to minors on Internet enabled devices, since filters are the least restrictive means.
(b) The United States Supreme Court found in *Ginsberg v. New York*, 390 U.S. 629 (1968) that a physical display state statute that required physical bricks and mortar stores to put physical obscene material behind a physical blinder rack was constitutional under first amendment heightened scrutiny, which means that a digital blinder rack statute that requires digital retailers to put digital obscene material behind a digital blinder rack is also Constitutional on the same legal basis.

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

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

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

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

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

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