AN ACT

To amend chapter 589, RSMo, by adding thereto nine new sections relating to the protection of children, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 589, RSMo, is amended by adding thereto nine new sections, to be known as sections 589.1000, 589.1002, 589.1004, 589.1006, 589.1008, 589.1010, 589.1012, 589.1014, and 589.1015, to read as follows:

589.1000. Sections 589.1000 to 589.1015 shall be known and may be cited as the "Protect Children from Pornography Act".

589.1002. As used in sections 589.1000 to 589.1015, the following terms shall mean:

1. "Adult entertainment establishment", a business in which, as the major activity, customers congregate primarily for the purpose of viewing or associating with employees who display anatomical areas designed to provide sexual stimulation or sexual gratification: human genitals, the immediate pubic region, or pubic hair; buttocks to the extent of exposing the immediate anal area; female breasts to points below the nipples, even if covered with opaque clothing; all of the above anatomical areas when covered only by transparent or diaphanous clothing;

2. "Algorithm", a set of instructions designed to perform a specific task;

3. "Blocking software", software that prevents a device from accessing obscene material on the internet;

4. "Child pornography", content that is prohibited under 18 U.S.C. Section 2251;

5. "Court of competent jurisdiction", the state or federal court
in proximity to where the breach and injury occurred;

(6) "Distributor", a person who manufactures, sells, offers for sale, leases, or distributes a product in this state that makes content accessible on the internet also referred to as an internet enabled device;

(7) "Hate speech", a catch all phrase based on arbitrary standards concerning content that offends the delicate sensibilities of individuals who are employed by the social media website;

(8) "Internet", the international computer networks of both federal and nonfederal interoperable packet switched data networks;

(9) "Obscene material", content:

(a) That the average individual applying contemporary community standards would find, when considered or taken as a whole, appeals to the prurient interests;

(b) Depicting or describing sexual conduct in a patently offensive way by audio or visual representations of sexual acts, normal or perverted, actual or simulated; masturbation, excretory functions or exhibitions of a specified anatomical area of oneself or another; or tactile stimulation of the covered or uncovered genitals of oneself or another; and

(c) That, when considered or taken as a whole, lacks serious literary, artistic, political, or scientific value;

(10) "Person", an individual or a corporation, business enterprise, or other legal entity;

(11) "Personal identification information", information that identifies an individual, including an individual's photograph, Social Security number, driver identification number, name, email address, home address, or telephone number;

(12) "Political speech", speech relating to the state government, the body politic, public administration or law of the civil aspects of government or the military. Political speech includes not just speech by the government or candidates for office, but also any discussion of social issues;

(13) "Religious speech", a set of unproven answers, truth claims, faith-based assumptions and naked assertions that attempt to explain the greater questions like how things were created, what humans
should do or not do, and what happens after death;

(14) "Revenge pornography", an image of a person engaged in a specified sexual activity or that displays a specified anatomical area if the image contains or conveys the personal identification information of the depicted person to an internet website without the depicted person's consent and describes offense under section 573.110;

(15) "Specified anatomical area":

(a) Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or

(b) Human male genitals in a discernibly turgid state, whether covered or uncovered.

589.1004. 1. A distributor shall not manufacture, sell, offer for sale, lease, trade, or distribute a product in this state that makes content accessible on the internet unless the internet enabled device contains active and properly operating blocking software that renders inaccessible by default websites that:

(1) Are known to facilitate human trafficking, which is an offense under sections 566.206, 566.209, 566.210, or 566.211;

(2) Are known to advance prostitution, which is an offense under section 567.020;

(3) Display child pornography, which is an offense under 18 U.S.C. Section 2251;

(4) Display revenge pornography, which is an offense under section 573.110;

(5) Display obscene material.

2. A distributor shall:

(1) Make reasonable and ongoing efforts to ensure that the blocking software functions properly;

(2) Establish a reporting mechanism, such as a website or call center, to allow a consumer to report unblocked websites that are displaying content described in subsection 1 of this section or to report blocked websites that are not displaying material described in subsection 1 of this section;

(3) Report child pornography received through the reporting mechanism to the National Center For Missing and Exploited Children's
cybertipline in accordance with 18 U.S.C. Section 2258A;
(4) Not block access to social media websites that provide a
means for the website's users to report obscene materials and have in
place procedures for evaluating those reports and removing obscene
material;
(5) Not block access to websites that serve primarily as a search
engine; and
(6) Not block access to websites that displays complete movies
that are rated R and below by the Classification and Ratings
Administration.
589.1006. 1. The attorney general or a prosecuting attorney may
seek injunctive relief from a distributor that allows access to content
or a website in violation of sections 589.1000 to 589.1014.
2. A distributor shall be punishable by a monetary penalty of not
more than ten thousand dollars for a first offense and not more than
thirty thousand dollars for any subsequent offense, if the distributor
knowingly:
(1) Sells a product that makes content accessible on the internet
without digital blocking capability that fails to make any attempt to
render inaccessible the content described in subsection 1 of section
589.1004;
(2) Provides the mechanism or source code to deactivate the
digital blocking capability as to a minor or as to an adult without
complying with subsection 1 of section 589.1008.
3. A distributor who commits more than two separate offenses
under this section is guilty of a misdemeanor and upon conviction shall
be punished by imprisonment of less than one year, or by a fine of not
more than five hundred dollars.
4. Sections 589.1000 to 589.1014 shall not apply to:
(1) An occasional sale of an internet enabled device by a person
that is not regularly engaged in the trade business of selling internet
enabled devices;
(2) Products produced or sold before enactment of this act; or
(3) Independent third party routers, not associated with an
internet service provider.
589.1008. 1. A distributor shall deactivate blocking software in
a product if the person who purchased or leased the product:
(1) Specifically requests that the distributor deactivate the blocking software;
(2) Presents identification that proves that the person is eighteen years of age or older;
(3) Acknowledges the receipt of a warning from the distributor that deactivating the blocking software will prevent the blocking of obscene material; and
(4) Pays to the distributor a twenty-dollar one-time deactivation fee to be remitted to the state treasurer and deposited in the human trafficking and child exploitation grant fund established under subsection 1 of section 589.1012.

2. The deactivation fee in subdivision (4) of subsection 1 of this section is not content based but imposed and remitted to the state to offset secondary harmful effects and to help the state uphold community standards of decency and to combat sex related crimes and is to be used as set forth in subsection 2 of section 589.1012.

3. Nothing in sections 589.1000 to 589.1014 shall prohibit a distributor from imposing an additional reasonable charge to deactivate the blocking software which it may retain for profit.

589.1010. 1. If the blocking software blocks a website that is not displaying content that is described in subsection 1 of section 589.1004 and the block is reported to a distributor's call center or reporting mechanism, the website shall be unblocked no later than five days after the block is reported.

2. Any person may seek judicial relief to unblock a website that is not displaying content described in subsection 1 of section 589.1004. The prevailing party in the civil action may seek attorney's fees, costs, and other forms of relief.

589.1012. 1. There is hereby created in the state treasury the "Human Trafficking and Child Exploitation Grant Fund", which shall consist of moneys collected under subdivision (4) of subsection 1 of section 589.1008 and subsection 1 of section 589.1015, and any other appropriations, gifts, grants, donations, and requests. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements.

2. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely for grants to government and
non-government entities and individuals that are working to uphold community standards of decency, to strengthen families and to develop, expand, or advance programs for victims of human child exploitation. This includes providing grants for:

1. Rape-kit testing;
2. Physical and mental health services;
3. Temporary and permanent housing placement;
4. Employment, placement, education, and training;
5. Prevention of and protection from human trafficking, domestic violence, prostitution, divorce child abuse, and rape victims by training first responders and by increasing public awareness;
6. School districts;
7. Victims' compensation;
8. Shelters and dream centers;
9. Family counseling and therapy;
10. Law enforcement;
11. Musical, writing, design, cinematic, and pictorial creative art projects that intend to promote decency;
12. Scholarship to students that display outstanding moral character in their community; and
13. Abstinence Programs.

3. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

4. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

589.1014. 1. If a distributor that is subject to sections 589.1000 to 589.1014 fails to block obscene material or block access to a prohibited website within five days after receiving a report that obscene material has breached blocking software or that a prohibited website is accessible through a product manufactured, sold, leased, traded, or distributed by the distributor, the attorney general or any person may file a civil suit.

2. The attorney general or the person who files the civil suit may seek damages of up to thirty thousand dollars for each website that was reported but not blocked within five days. The prevailing party in the
civil action may seek attorney fees and costs.

3. It shall be an affirmative defense in a civil action to a charge of violating sections 589.1000 to 589.1015 that the dissemination of the content described in section 589.1002 was limited to institutions or organizations having scientific, educational, or other similar justifications for displaying the material covered by sections 589.1002 to 589.1015.

589.1015. 1. A five-dollar admission fee is imposed for each entry by each customer admitted to an adult entertainment establishment to be remitted to the state treasurer and deposited into the human trafficking and child exploitation grant fund established under subsection 1 of section 589.1012.

2. The admission fee of subsection 1 of this section is in addition to all other taxes imposed on the business.

3. The admission fee is not content based but imposed and remitted to the state to offset secondary harmful effects and to help the state uphold community standards of decency and to combat sex related crimes and is to be used as set forth in subsection 2 of section 589.1012.

4. Each adult entertainment establishment shall record daily in the manner required by the state treasurer the number of customers admitted to the business. The business shall maintain the records for the period required by the state treasurer and make the records available for inspection and audit on request by the state treasurer. No personal information of the customers is to be in the report.

5. The provisions of this section do not require an adult entertainment establishment to impose a tax on a customer of the business. A business has discretion to determine the manner in which the business derives the money required to pay the tax imposed under this section.