It is enacted by the General Assembly as follows:

SECTION 1. Legislative findings - Background.

The general assembly finds that:

(1) The United States Supreme Court in *Ashcroft v. Am. Civil Liberties Union*, 542 U.S. 656 (2004) found that the 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.

(2) 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 brick 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.

(3) Because the Supreme Court of the United States in *Paris Adult Theatre I v. Slaton*, 413 U.S. 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.

(4) 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 ($5.00) 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 ($20.00) filter deactivation fee to enter the digital strip club on Internet-enabled devices is constitutional on the sale legal basis, if remitted to the state to be used in the same manner.

(5) Sex trafficking has moved from the street corner to the smartphone, 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 other measure since the inception of the Internet.

(6) Live adult entertainment establishments contribute to a culture that tolerates the sexual objectification and exploitation of women, and contribute to the need for community-based services to respond to victims of all forms of sexual exploitation, including sexual harassment, trafficking, and sexual assault.

(7) Crime statistics show that the presence of live adult entertainment establishments may result in an increase in prohibited secondary sexual activities, such as prostitution, and other crimes in the surrounding community.

(8) The general assembly is generally opposed to online censorship unless the content is injurious to children or promotes human trafficking - only then is the general assembly for limited censorship.

(9) Retailers of Internet-enabled devices market their products as being family-friendly when they are often not, constituting unfair trade practices.

SECTION 2. Legislative findings - Upholding community standards of decency.

The general assembly finds that:

Some government and non-government groups in Rhode Island have been either working to uphold community standards of decency or to combat sex-related offenses that could be prospective beneficiaries of the grant fund under § 6-13.4-7. These include:

Rhode Island Human Trafficking Task Force, Sex Trafficking Law Enforcement Task Force, RI Advocacy for Children, Children's Advocacy Center of Bristol County, Day One, Plan USA, Because I am a Girl, Crossroads RI, Sojourner House Inc., Crossroads RI, Rhode Island Coalition for the Homeless, Holy Family Home for Mothers and Children, Advent House Inc., Domestic Violence Resource Center of South County, Crossroads Family Shelter, House of Hope
Community Development Corporation, Lucy’s Hearth, Community Care Alliance, Women's Resource Center Newport County, Warm Shelter Inc., Children's Shelter-Blackstone, Welcome House of South County, Women's Resource Center, Amos House, Urban League of RI, Crossroads Rhode Island, Providence Rescue Mission; Crossroads RI (Providence); Rhode Island Coalition for the Homeless (Pawtucket); Crossroads RI (West Warwick); Crossroads Family Shelter (Seekonk); House of Hope Community Development Corporation (Warwick); Lucy's Hearth (Middletown); Advent House Inc. (Providence); Holy Family Home for Mothers and Children (Providence); Community Care Alliance (Woonsocket); Children's Shelter-Blackstone (Pawtucket); Verizon Company Homeless Shelter (Pawtucket); Urban League of RI (Providence); Providence Rescue Mission (Providence); Warm Shelter Inc. (Westerly); Welcome House of South County For Homeless (Riverside); Crossroads Rhode Islands (North Kingstown); Rhode Island Family Shelter (Warwick); Tanner House (Providence); Blackstone Valley Advocacy Center (Central Falls.); McAuley House (Providence); Camp Street Community Ministries (Providence); WARM Center Administration (Westerly); Emmanuel Men Shelter (Providence); Domestic Violence Resource Center of South County (Wakefield); Elizabeth Buffum Chace Center (Warwick); Women's Resource Center Newport County Office (Newport); The Salvation Army of Pawtucket, RI (Pawtucket); YWCA (Woonsocket); Family Resource Center (Attleboro); Elizabeth Buffum Chace House (Warwick); Harvest Community Church (Woonsocket); Good Neighbors (Riverside); McAuley Village (Providence); Operation Stand Down (Johnston); The Salvation Army of Newport, RI (Newport); St Paul's Church (Pawtucket); Providence In-Town Churches Association (Providence); Women's Resource Center (Warren); McAuley Ministries (Providence); Rhode Island Veterans' Home Community Living Center (Providence); Habitat For Humanity of Rhode Island Greater Providence (Providence); St Joseph's Rectory (Newport); YWCA Greater RI (Central Falls); Habitat for Humanity for Rhode Island South County (Charlestown); Community Care Alliance (Woonsocket); Cumberland Manor (Cumberland); Project Hope (Providence); The Salvation Army of Providence, RI (Providence); North American Family institute (Warwick); Eastbay Community Action Program (Tiverton); Church Community Housing Corporation (Newport); Catholic social services (Fall River); Rebuilding Together (Providence); North American Family Insurance (Lincoln); Community Care Alliance (Woonsocket); Access Emergency Shelter (Danielson); Galilee Mission (Narragansett); Always Home (Mystic); Pawtucket Central Falls Development (Pawtucket); North American Family Institute (Pawtucket); Community Care Alliance (Woonsocket); North Kingstown Food Pantry (North Kingstown); Blackstone Valley Emergency Food Center (Pawtucket); Housing Network of Rhode Island
(Pawtucket); Parents Without Partners (Providence); Corp For Supportive Housing (Providence); Habitat For Humanity-West Bay (Warwick); Operation Stand Down (West Warwick); Joe's Sock Fund For Homeless (Attleboro); Neighborworks (Woonsocket); Council of Churches (Attleboro); and other similar situated groups and individuals.

SECTION 3. Title 6 of the General Laws entitled "COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

CHAPTER 13.4

INDECENT DECEPTIVE TRADE PRACTICES ACT

6-13.4-1. Short title.

This chapter shall be known and may be cited as the "Indecent Deceptive Trade Practices Act."

6-13.4-2. Definitions.

As used in this chapter:

(1) "Adult" has the same meaning as in § 11-67.1-2.

(2) "Cellular telephone" means a communication device containing a unique electronic serial number that is programmed into its computer chip by its manufacturer and whose operation is dependent on the transmission of that electronic serial number along with a mobile identification number, which is assigned by the cellular telephone carrier, in the form of radio signals through cell sites and mobile switching stations.

(3) "Child pornography" has the same meaning as in § 11-9-1.3(c)(1) and 18 U.S.C. § 2256.

(4) "Computer" has the meaning given in 18 U.S.C. § 1030.

(5) "Consumer" means an individual who purchases or leases for personal, family, or household purposes an Internet-enabled device.

(6) "Data communications device" means an electronic device that receives electronic information from one source and transmits or routes it to another, including, but not limited to, any such bridge, router, switch, or gateway.

(7) "Filter" means a digital blocking capability, hardware or software that restricts or blocks Internet access to websites, electronic mail, chat or other Internet-based communications based on category, site, or content, and the term means a digital blinder rack that can be deactivated by a retailer upon the satisfaction of certain nominal conditions.

(8) "Human trafficking" means the commission of an offense in violation of §§ 11-67.1-3 through 11-67.1-7.

(9) "Indecent for minors" has the same meaning as in § 11-31-10.

(10) "Internet" has the same meaning as provided in 31 U.S.C. § 5362.
(11) “Internet-enabled device” means a cellular telephone, computer, data communications device, or other product manufactured, distributed, or sold in this state that provides Internet access or plays a material role in distributing content on the Internet.

(12) “Internet service provider” has the same meaning as in § 39-2-20.1.

(13) “Knowingly” has the same meaning as ascribed in § 11-31-1.

(14) “Live adult entertainment establishment” means 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; male genitals in a state of erection, even if covered with opaque clothing; all of the above anatomical areas when covered only by transparent or diaphanous clothing.

(15) “Minor” means a person under the age of eighteen (18) years.

(16) “Non-government group” means a nonprofit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose of ending sexual violence in this state, or programs for the prevention of sexual violence, outreach programs, and technical assistance to and support of youth and rape crisis centers working to prevent sexual violence. The term also includes individuals and/or any group that is doing anything to uphold community standards of decency.

(17) “Nude” means nudity as defined in § 11-31-10.

(18) “Obscene” has the same meaning and is established by the criteria provided in § 11-31-1 and the term includes websites that:

(i) Are known to facilitate human trafficking or prostitution; and

(ii) Display or depict images that are indecent to minors or that constitute sado-masochistic abuse, sexual conduct, or, revenge pornography.

(19) “Personal identification information” means any information that identifies a person, including an individual's photograph, social security number, driver identification number, name, email address, address or telephone number.

(20) “Prostitution” means an act in violation of § 11-34.1-2.

(21) “Retailer” means any person who regularly engages in the manufacturing, sale, offer for sale or lease of Internet-enabled device or services in this state that make content accessible on the Internet. The term includes Internet service providers and suppliers and manufacturers of Internet-enabled devices that materially play a role in distributing content on the Internet or that make content accessible that are subject to the jurisdiction of this state.
(22) "Revenge pornography distribution" means conduct in violation of § 11-64-3.
(23) "Sexual conduct" shall have the same meaning as ascribed in § 11-31-1.
(24) "Social media website" means an Internet website or application that enables users to communicate with each other by posting information, comments, messages, or images and that meets all of the following requirements:
(i) Is open to the public;
(ii) Has more than seventy-five million (75,000,000) subscribers;
(iii) From its inception, has not been specifically affiliated with any one religion or political party; and
(iv) Provides a means for the website's users to report obscene materials and has in place procedures for evaluating those reports and removing obscene material.

6-13.4-3. Continuing duties of retailers of internet-enabled devices.
(a) A retailer that manufactures, sells, offers for sale, leases, or distributes an Internet-enabled device shall ensure that the product is equipped with an active and operating filter prior to sale that blocks by default websites that:
(1) Are known to facilitate human trafficking or prostitution; and
(2) Display child pornography, revenge pornography, or obscene material indecent for minors.
(b) A retailer that manufactures, sells, offers for sale, leases, or distributes an Internet-enabled device shall:
(1) Make reasonable and ongoing efforts to ensure that a product's filter functions properly;
(2) Establish a reporting mechanism, such as a website or call center, to allow a consumer to report unblocked websites displaying content described in subsection (a) of this section or to report blocked websites that are not displaying content described in subsection (a) 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. § 2258a;
(4) Not block access to websites that:
(i) Are 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;
(ii) Serve primarily as a search engine; or
(iii) Display complete movies that meet the qualifications for a "G," "PG," "PG-13," or "R" rating by the Classification and Ratings Administration.
(c) Except as provided by subsection (d) of this section, a retailer shall not provide to a consumer, methods, source code, or other operating instructions for deactivating a product's filter.
(d) A retailer of an Internet-enabled device shall deactivate the filter after a consumer:

(1) Requests that the capability be disabled;

(2) Presents personal identification information to verify that the consumer is eighteen (18) years of age or older;

(3) Acknowledges receiving a warning regarding the potential danger of deactivating the filter; and

(4) Pays a one-time twenty dollar ($20.00) filter deactivation fee to be remitted quarterly to the division of taxation to be deposited into the Rhode Island human trafficking and child exploitation prevention grant fund established pursuant to § 6-13.4-7.

(e) The filter deactivation fee of this section is not content based but collected and remitted to the division of taxation to help the state bear the costs of upholding community standards of decency and of combating sex-related offenses, and is to be used as set forth in § 6-13.4-7. The division of taxation shall proscribe the administration, payment, collection and enforcement of the fee imposed by this section. The division of taxation may annually adjust the one-time fee to account for inflation.

(f) Nothing contained herein shall be construed to prevent a retailer of an Internet-enabled device from charging a reasonable separate fee to deactivate the filter, which it may retain for profit.

(g) The attorney general shall prepare and make available to retailers a form that includes all content that shall be in the warning described in subsection (d)(3) of this section.

(h) Nothing contained herein shall be construed to require a retailer of an Internet-enabled device to create a database or registry that contains the names or personal identification information of adults who knowingly chose to deactivate a product's filter. A retailer of an Internet-enabled device shall take due care to protect the privacy rights of adult consumers and shall not disclose the names or personal identification information of an adult consumer who decided to deactivate a product's filter, except pursuant to a court order.

6-13.4-4. Civil action; Deceptive trade practice.

(a) If the filter blocks a website that is not displaying content described in § 6-13.4-3 and the block is reported to a call center or reporting mechanism, the website shall be unblocked within a reasonable time, but in no event later than five (5) business days after the block is first reported. A consumer may seek judicial relief to unblock a website that was wrongfully blocked by the filter. The prevailing party in a civil litigation may seek attorney fees, costs, and other forms of relief.

(b) If a retailer of an Internet-enabled device is unresponsive to a report of a website displaying content described in § 6-13.4-3 that has breached the filter, the attorney general or a consumer may file a civil suit. The attorney general or a consumer may seek damages of up to five...
hundred dollar ($500) for each website that was reported but not subsequently blocked. The
prevailing party in the civil action may seek attorneys' fees, costs, and other forms of relief.
(c) A retailer violating the provisions of this chapter shall have engaged in deceptive trade
(d) Nothing contained herein shall be construed to limit the dissemination of content of
material or to filter content to institutions or organizations having law enforcement, scientific or
educational justification for displaying the material.

6-13.4-5. Unlawful acts; Penalties.
(a) A retailer of an Internet-enabled device is guilty of an offense if it knowingly:
(1) Sells an Internet-enabled device without activated blocking capability that at least
makes an attempt to block by default websites that display content described in § 6-13.4-3; or
(2) Violates the provisions of this chapter.
(b) A retailer shall pay a civil penalty of not more than one thousand dollars ($1,000) for a
first violation and no more than two thousand five hundred dollars ($2,500) for any subsequent
violations.
(c) A retailer that commits subsequent violations shall be guilty of a misdemeanor.
(d) A retailer that commits an offense under subsection (a) of this section has engaged in
an unfair or deceptive trade practice in violation of chapter 13.1 of title 6.
(e) Only the attorney general may enforce this section.

6-13.4-6. Exemptions.
(a) Nothing contained herein shall be construed to 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; and
(3) Independent third-party routers that are not affiliated with an Internet service provider.
(b) This act does not apply to a retailer that manufactures, sells, offers for sale, leases, or
distributes an Internet-enabled device that is not subject to the jurisdiction of this state.

6-13.4-7. Rhode Island human trafficking and child exploitation prevention grant
fund.
(a) There is established in the general treasurer a special fund to be known as the "Rhode
Island Human Trafficking and Child Exploitation Prevention Grant Fund" (the "fund") to be
administered by the attorney general, or designee.
(b) The purpose of the fund is:
(1) To promote the development throughout the state of locally-based and supported
nonprofit programs for the survivors of sexual-related offenses and to support the quality of
services provided;

(2) To empower any government and, especially, non-government groups working to
uphold community standards of decency, to protect children, to strengthen families, or to develop,
expand, or to prevent or offset the costs of sex-related offenses; and
(3) Not to promote a culture of perpetual victimhood but to maximize human flourishing
and to protect the public's safety, health, and welfare.

(c) The purpose can be interpreted broadly to meet the evolving needs of the state.
(d) The fund shall consist of:

(1) Deactivation fees collected by the department of taxation from retailers of Internet-
enabled devices pursuant to § 6-13-4-3.
(2) Admission fees collected by the department of taxation from live adult entertainment
establishments pursuant to § 6-13-4-7; and
(3) Any other appropriations, gifts, grants, donations, and bequests.
(e) Money deposited into the fund may be used only by:

(1) The attorney general, or designee, for grants to government and, especially, non-
government entities and individuals that are working to uphold community standards of decency,
to protect children, to strengthen families, or to develop, expand, or strengthen programs for victims
of human trafficking or child exploitation, including providing grants for:

(i) The needs of the council on human trafficking, established by § 11-67.1-19;
(ii) The needs of any human trafficking task force or human trafficking coalition based in
Rhode Island;
(iii) The needs of victim compensation;
(iv) Services to help women with substance abuse problems stay clean;
(v) Counselors and victim advocates who are trained to assist victims of domestic violence
and sexual abuse;
(vi) Shelters for women, particularly those who have been exposed to prostitution or sex
trafficking;
(vii) Research-based organizations;
(viii) Faith-based organizations working to uphold community standards of decency and
assisting victims of human trafficking or other sex offenses;
(x) Organizations that provide legal advocacy to abused, neglected, and at-risk children;
(xi) Physical and mental health services;
xii) Temporary and permanent housing placement;

xiii) Employment, placement, education, training;

xiv) Independent school districts;

xv) Family counseling and therapy;

xvi) Law enforcement;

xvii) Musical, writing, design, cinematic, or pictorial creative art projects that promote decency;

xviii) Regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims;

xix) Grants to support technology in rape crisis centers;

xx) Sexual violence awareness and prevention campaigns; and

xxi) Scholarships for students demonstrating outstanding character or leadership skills.

f) Any other state agency or organization for the purpose of conducting human trafficking enforcement programs or to uphold community standards of decency.

g) Notwithstanding any law to the contrary, interest accruing on investments and deposits of the fund shall be credited to the fund and shall not revert to the general fund, and shall be carried forward into the subsequent fiscal year.

(h) Any balance in the fund remaining unexpected at the end of a fiscal year shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

(i) The attorney general, or designee, shall evaluate activities conducted under this section each year and, on or before February 15, submit an annual report containing the evaluation to the senate president and speaker of the house of representatives. The report shall include:

(1) The amount of filter deactivation fees received pursuant to § 6-13.4-3;

(2) The amount of admission fees received pursuant to § 6-13.4-7;

(3) The manner in which the funds in the account were distributed; and

(4) The manner in which each entity receiving a grant used the grant money.

(j) The attorney general, or designee, may by rule:

(1) Determine eligibility requirements for any grant awarded from the fund;

(2) Require a grant recipient to offer minimum services for a period of time before receiving a grant and to continue to offer minimum services during the grant period; and

(3) Require a grant recipient to submit financial and programmatic reports.

(k) The attorney general, or designee, shall not spend more than ten percent (10%) of the available funds on the administration of the fund.

6-13.4-8. Live adult entertainment establishment admission fee.
(a) A five dollar ($5.00) admission fee is imposed for each entry by each customer admitted to a live adult entertainment establishment to be remitted quarterly to the department of taxation and deposited into the Rhode Island human trafficking and child exploitation prevention grant fund established pursuant to § 6-13.4-7. The department of taxation shall prescribe the method of administration, payment, collection and enforcement of the fee imposed by this section.

(b) 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 § 6-13.4-7.

(c) The admission fee is in addition to all other taxes imposed on the business that offers adult entertainment.

(d) Each live adult entertainment establishment shall record daily in the manner required by the department of taxation the number of customers admitted to the business. The business shall maintain the records for the period required by the department of taxation and make the records available only for inspection and audit on request by the department of taxation. The records shall not contain the names or personal information of any of the customers.

(e) This section does not require a live adult entertainment establishment to impose a tax on a customer of the business. A business has the discretion to determine the manner in which the business derives the money required to pay the tax imposed under this section.

SECTION 4. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS - INDECENT DECEPTIVE TRADE PRACTICES

***

1 This act would require retailers of Internet-enabled devices to provide a filter for obscene material. Provides that users may deactivate the filter upon payment of a twenty dollar ($20.00) fee. Failure to provide the filter would be a deceptive trade practice. Penalties are provided for violation of the provisions. This act would also create a fund for grants administered by the attorney general to be provided to groups working to uphold community standards and to assist survivors of sex-related offenses.

2 This act would take effect upon passage.