

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2931 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Randy Randleman

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2931

By: Randleman

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to human trafficking and child exploitation; creating the Human Trafficking and Child Exploitation Prevention Act; defining terms; directing retailers of Internet-enabled devices to equip products with certain filters; requiring retailers of Internet-enabled devices to ensure functionality of filters; establishing reporting requirements; directing retailers to submit reports of child pornography to certain tip line; prohibiting retailers from blocking access to certain websites; prohibiting retailers from sharing filter deactivation information with consumers; requiring retailers to deactivate filters under certain circumstances; providing for a one-time filter deactivation fee; providing for remittance of fee; directing the Oklahoma Tax Commission to deposit fee into certain revolving fund; providing purpose of fee; providing construing provision; directing the Attorney General to prepare and make available certain form; requiring retailers to use due care to protect privacy rights of adult consumers; prohibiting disclosure of personal identification information; providing for the unblocking of websites under certain circumstances; authorizing consumers to seek certain judicial relief; providing for attorney fees and costs; providing for the filing of civil actions when filters are breached; providing for attorney fees and costs; making retailers subject to penalties for deceptive trade practices; providing an affirmative defense; making certain acts unlawful; providing penalties; providing exemptions to provision of the act; establishing the Oklahoma Human Trafficking and Child Exploitation Prevention Grant

1 Fund; stating purpose of the fund; directing the
2 Attorney General to utilize funds for specific needs
3 and services; providing for the use of accrued
4 interest amounts and remaining balances in the
5 revolving fund; directing the Attorney General to
6 evaluate activities of grant recipients and submit
7 annual report to certain state officials; specifying
8 contents of annual report; authorizing the Attorney
9 General to establish eligibility requirements for
10 grant recipients; providing expenditure limitations
11 on grant funds; imposing fee for customers entering
12 live adult entertainment establishments; directing
13 remittance of said fee on a quarterly basis to the
14 Tax Commission; directing deposit of fee into certain
15 revolving fund; directing the Tax Commission to
16 prescribe method of administration, payment,
17 collection and enforcement of fees; stating purpose
18 of admission fee; directing live adult entertainment
19 establishments to record daily number of customers;
20 requiring the maintenance of certain records;
21 providing for the inspection and auditing of records
22 by the Tax Commission; providing discretion on
23 collecting and remitting admission fee; providing for
24 codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1031 of Title 15, unless there
is created a duplication in numbering, reads as follows:

Sections 1 through 8 of this act shall be known and may be cited
as the "Human Trafficking and Child Exploitation Prevention Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1032 of Title 15, unless there
is created a duplication in numbering, reads as follows:

1 As used in the Human Trafficking and Child Exploitation

2 Prevention Act:

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

10 2. "Child pornography" has the same meaning as defined in
11 Section 2256 of Title 18 of the United States Code and Section
12 1024.1 of Title 21 of the Oklahoma Statutes and describes an offense
13 provided for in Section 1021.2 of Title 21 of the Oklahoma Statutes;

14 3. "Computer" has the same meaning as defined in Section 1030
15 of Title 18 of the United States Code;

16 4. "Consumer" means an individual, business or entity that
17 purchases or leases for personal, family or household purposes or
18 any other reason an Internet-enabled device;

19 5. "Data communications device" means an electronic device that
20 receives electronic information from one source and transmits or
21 routes it to another including, but not limited to, any such bridge,
22 router, switch or gateway;

23 6. "Filter" means digital blocking capability, hardware or
24 software that restricts or blocks Internet access to websites,

1 electronic mail, chat or other Internet-based communications based
2 on category, site or content and also means a digital blinder rack
3 that can be deactivated by a retailer upon the satisfaction of
4 certain nominal conditions;

5 7. "Harmful to minors" has the same meaning as defined in
6 Section 1040.75 of Title 21 of the Oklahoma Statutes;

7 8. "Human trafficking" has the same meaning as defined in
8 Section 748 of Title 21 of the Oklahoma Statutes;

9 9. "Internet" has the same meaning as defined in Section 5362
10 of Title 31 of the United States Code;

11 10. "Internet-enabled device" means a cellular telephone,
12 computer, data communications device or other product manufactured,
13 distributed or sold in this state that provides Internet access or
14 plays a material role in distributing content on the Internet;

15 11. "Internet service provider" means a person engaged in the
16 business of providing a computer and communications facility through
17 which a consumer may obtain access to the Internet. The term does
18 not include a common carrier if it provides only telecommunication
19 service;

20 12. "Live adult entertainment establishment" means a business
21 in which, as the major activity, customers congregate primarily for
22 the purpose of viewing or associating with employees who display
23 anatomical areas designed to provide sexual stimulation or sexual
24 gratification including, but not limited to, human genitals, the

1 immediate pubic region or pubic hair, buttocks to the extent of
2 exposing the immediate anal area, female breasts to points below the
3 nipples, male genitals in a state of erection even if covered with
4 opaque clothing, and all of the aforementioned anatomical areas when
5 covered only by transparent or diaphanous clothing;

6 13. "Minor" has the same meaning as defined in Section 1040.75
7 of Title 21 of the Oklahoma Statutes;

8 14. "Nongovernment group" means a nonprofit organization exempt
9 from federal income taxation pursuant to the provisions of Section
10 501(c)(3) of Title 26 of the Internal Revenue Code of 1986, whose
11 primary purpose is ending sexual violence in this state through
12 programs dedicated to preventing sexual violence and outreach
13 programs and technical assistance to and support of youth and rape
14 crisis centers working to prevent sexual violence. The term also
15 includes individuals or groups that are doing anything to uphold
16 community standards of decency;

17 15. "Obscene" has the same meaning as defined in Section 1024.1
18 of Title 21 of the Oklahoma Statutes and includes Internet websites
19 that:

- 20 a. are known to facilitate human trafficking or
- 21 prostitution, and
- 22 b. display or depict images that are harmful to minors or
- 23 that constitute sadomasochistic abuse, sexual
- 24 excitement, sexual conduct or revenge pornography;

1 16. "Personal identification information" means any information
2 that identifies a person including a photograph, Social Security
3 number, driver license number, name, email address, home address or
4 telephone number;

5 17. "Prostitution" has the same meaning as defined in Section
6 1030 of Title 21 of the Oklahoma Statutes;

7 18. "Retailer" means any person who regularly engages in the
8 manufacturing, sale, offer for sale or lease of Internet-enabled
9 devices or services in this state that makes content accessible on
10 the Internet. The term includes Internet service providers;

11 19. "Revenge pornography" means images promoting the exposure
12 of a person which is a criminal offense under the provisions of
13 Section 1040.13b of Title 21 of the Oklahoma Statutes;

14 20. "Sadomasochistic abuse" has the same meaning as defined in
15 Section 1040.75 of Title 21 of the Oklahoma Statutes;

16 21. "Sexual conduct" has the same meaning as defined in Section
17 1024.1 of Title 21 of the Oklahoma Statutes;

18 22. "Sexual excitement" has the same meaning as defined in
19 Section 1040.75 of Title 21 of the Oklahoma Statutes; and

20 23. "Social media website" means an Internet website or
21 application that enables users to communicate with each other by
22 posting information, comments, messages or images and that meets all
23 of the following requirements:

24 a. is open to the public,

- b. has more than seventy-five million (75,000,000) subscribers,
- c. from its inception, has not been specifically affiliated with any one religion or political party, and
- d. provides a means for the users of its website to report obscene materials and has in place procedures for evaluating those reports and thereafter removing said obscene material.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1033 of Title 15, unless there is created a duplication in numbering, reads as follows:

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 harmful to 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;

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

6 3. Report child pornography received through the reporting
7 mechanism to the CyberTipline of the National Center for Missing and
8 Exploited Children in accordance with the provisions of Section
9 2258A of Title 18 of the United States Code; and

10 4. Not block access to websites that:

- 11 a. are social media websites that provide a means for
12 users of the website to report obscene materials and
13 have in place procedures for evaluating those reports
14 and removing the obscene material,
- 15 b. serve primarily as a search engine, or
- 16 c. display complete movies that meet the qualifications
17 for a "G", "PG", "PG-13" or "R" rating by the
18 Classification and Rating Administration, as those
19 qualifications existed on September 1, 2020.

20 C. Except as provided by subsection D of this section, a
21 retailer of an Internet-enabled device may not provide to a consumer
22 methods, source code or other operating instructions for
23 deactivating a product's filter.

1 D. A retailer of an Internet-enabled device shall deactivate
2 the filter after a consumer:

3 1. Requests that the capability be disabled;

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

6 3. Acknowledges receiving a warning regarding the potential
7 danger of deactivating the filter; and

8 4. Pays a one-time filter deactivation fee of Twenty Dollars
9 (\$20.00) to the retailer who shall then be required to remit the
10 filter deactivation fee on a quarterly basis to the Oklahoma Tax
11 Commission to be deposited into the Oklahoma Human Trafficking and
12 Child Exploitation Prevention Grant Fund established under the
13 provisions of Section 7 of this act.

14 E. The filter deactivation fee provided for in paragraph 4 of
15 subsection D of this section is not content based but shall be
16 collected and remitted to the Oklahoma Tax Commission to help the
17 state bear the costs of upholding community standards of decency and
18 combating sex-related offenses and shall be used as set forth in
19 subsection B of Section 7 of this act. The Tax Commission shall
20 prescribe the administration, payment, collection and enforcement of
21 the fee imposed by the provisions of paragraph 4 of subsection D of
22 this section. The Tax Commission may annually adjust the one-time
23 fee to account for inflation.

1 F. Nothing in this act shall be construed to prevent a retailer
2 of an Internet-enabled device from charging a reasonable, separate
3 fee to deactivate the filter, which it may retain for profit.

4 G. The Attorney General shall prepare and make available to
5 retailers a form that includes all content that must be in the
6 warning described in paragraph 3 of subsection D of this section.

7 H. Nothing in this act shall be construed to require a retailer
8 of an Internet-enabled device to create a database or registry that
9 contains the names or personal identification information of adults
10 who knowingly chose to deactivate a product's filter. A retailer of
11 an Internet-enabled device shall take due care to protect the
12 privacy rights of adult consumers under this section and shall not
13 disclose the names or personal identification information of an
14 adult consumer who decided to deactivate a product's filter.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1034 of Title 15, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Pursuant to paragraph 2 of subsection B of Section 3 of this
19 act, if a filter blocks a website that is not displaying content
20 described in subsection A of Section 3 of this act and the block is
21 reported to a call center or other reporting mechanism, the website
22 shall be unblocked within a reasonable time but in no event later
23 than five (5) business days after the block is first reported. A
24 consumer may seek judicial relief to unblock a website that was

1 wrongfully blocked by the filter. The prevailing party in a civil
2 litigation may seek attorney fees, costs and other forms of relief.

3 B. Pursuant to paragraph 2 of subsection B of Section 3 of this
4 act, if a retailer of an Internet-enabled device is unresponsive to
5 a report of a website displaying content described in subsection A
6 of Section 3 of this act that has breached the filter, the Attorney
7 General or a consumer may file a civil action. The Attorney General
8 or a consumer may seek monetary damages of up to Five Hundred
9 Dollars (\$500.00) for each website that was reported but not
10 subsequently blocked. The prevailing party in the civil action may
11 seek attorney fees, costs and other forms of relief.

12 C. A retailer of an Internet-enabled device that fails to
13 comply with a duty described in subsections A and B of this section
14 has engaged in an abusive, unfair and deceptive trade practice in
15 violation of Section 753 of Title 15 of the Oklahoma Statutes and
16 shall be subject to the penalties provided for therein.

17 D. It shall be an affirmative defense in a civil action to a
18 charge of violating this section that the dissemination of the
19 content described in subsection A of Section 3 of this act was
20 limited to institutions or organizations having scientific,
21 educational or other similar justifications for displaying the
22 material.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1035 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for a retailer of an Internet-enabled device to knowingly:

1. Sell an Internet-enabled device without an activated filter that at least makes an attempt to block by default websites that display content described in subsection A of Section 3 of this act;

2. Violate the provisions of subsection C of Section 3 of this act;

3. Fail to comply with the requirements of subsection D of Section 3 of this act before deactivating a product's filter; or

4. Disclose to a third party the name or the personal identification information of adult consumers who have elected to deactivate a product's filter in violation of subsection H of Section 3 of this act without a court order directing otherwise.

B. A retailer of an Internet-enabled device that commits an offense under the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor subject to a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment in a county jail for a term not exceeding two (2) days. A retailer convicted of a second violation within one (1) year of a first conviction shall be subject to a fine not exceeding Two Thousand Five Hundred Dollars (\$2,500.00), or by imprisonment in a county

1 jail for a term not exceeding ten (10) days. A retailer convicted
2 of a third or subsequent violation within one (1) year of a first
3 conviction shall be subject to a fine not exceeding Two Thousand
4 Five Hundred Dollars (\$2,500.00), or by imprisonment in a county
5 jail for a term not exceeding sixty (60) days.

6 C. A retailer of an Internet-enabled device that commits an
7 offense under the provisions of subsection A of this section has
8 engaged in an abusive, unfair and deceptive trade practice in
9 violation of Section 753 of Title 15 of the Oklahoma Statutes and is
10 subject to the penalties provided for therein.

11 D. Only the Attorney General or a district attorney can enforce
12 the provisions of this section.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1036 of Title 15, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The provisions of the Human Trafficking and Child
17 Exploitation Prevention Act shall not apply to:

18 1. An occasional sale of an Internet-enabled device by a person
19 who is not regularly engaged in the trade business of selling
20 Internet-enabled devices;

21 2. Products produced or sold before the effective date of this
22 act; and

23 3. Independent third-party routers that are not affiliated with
24 an Internet service provider.

1 B. The provisions of this act do not apply to a retailer of an
2 Internet-enabled device that is not subject to the jurisdiction of
3 this state.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1037 of Title 15, unless there
6 is created a duplication in numbering, reads as follows:

7 A. There is hereby created in the State Treasury a revolving
8 fund to be designated as the "Oklahoma Human Trafficking and Child
9 Exploitation Prevention Grant Fund" to be administered by the Office
10 of the Attorney General or designee. The fund shall be a continuing
11 fund, not subject to fiscal year limitations, and shall consist of
12 filter deactivation fees collected by the Oklahoma Tax Commission
13 from retailers of Internet-enabled devices pursuant to the
14 provisions of paragraph 4 of subsection D of Section 3 of this act,
15 live adult entertainment admission fees collected by the Tax
16 Commission from live adult entertainment establishments pursuant to
17 the provisions of subsection A of Section 8 of this act and any
18 other appropriations, gifts, grants, donations, bequests or monies
19 designated to the fund by law. All monies accruing to the credit of
20 said fund are hereby appropriated and may be budgeted and expended
21 by the Attorney General for the following purposes:

22 1. Promote throughout the state the development of locally
23 based and supported nonprofit programs for the survivors of sexual-
24 related offenses and support for quality services to said survivors;

1 2. Empower government and nongovernment entities working to
2 uphold community standards of decency to protect children and
3 strengthen families;

4 3. Develop, expand or prevent or offset the costs of sex-
5 related offenses; and

6 4. Not promote a culture of perpetual victimhood but maximize
7 human flourishing and protect the safety, health and welfare of the
8 public.

9 The purposes can be interpreted broadly to meet the evolving needs
10 of the state. Expenditures from said fund shall be made upon
11 warrants issued by the State Treasurer against claims filed as
12 prescribed by law with the Director of the Office of Management and
13 Enterprise Services for approval and payment.

14 B. Money deposited into the revolving fund may be used only by
15 the Office of the Attorney General or designee for grants to
16 government and nongovernment entities and individuals that are
17 working to uphold community standards of decency to protect children
18 and strengthen families and that are developing, expanding or
19 strengthening programs for victims of human trafficking or child
20 exploitation and specifically include the following:

21 1. The needs of any human trafficking task force or anti-human-
22 trafficking coalition based in Oklahoma;

1 2. The needs of the Department of Mental Health and Substance
2 Abuse Services, District Attorneys Council and the State Department
3 of Health;

4 3. The needs of victims compensation programs;

5 4. Substance abuse services to persons with substance abuse
6 problems;

7 5. Counselors and victim advocates who are trained to assist
8 victims of domestic violence and sexual abuse;

9 6. Shelters for persons who have been exposed to prostitution
10 or sex trafficking;

11 7. Research-based organizations;

12 8. Faith-based organizations working to uphold community
13 standards of decency and assisting victims of human trafficking or
14 other sex offenses;

15 9. Child advocacy centers;

16 10. Organizations that provide legal advocacy to abused,
17 neglected and at-risk children;

18 11. Physical and mental health services;

19 12. Temporary and permanent housing placement;

20 13. Employment, placement, education and training;

21 14. Independent school districts;

22 15. Family counseling and therapy;

23 16. Law enforcement;

1 17. Musical, writing, design, cinematic or pictorial creative
2 art projects that promote decency;

3 18. Regional nonprofit providers of civil legal services to
4 provide legal assistance for sexual assault victims;

5 19. Grants to support technology in rape crisis centers;

6 20. Sexual violence awareness and prevention campaigns;

7 21. Scholarships for students demonstrating outstanding
8 character or leadership skills; and

9 22. Any other state agency or organization for the purpose of
10 conducting human trafficking enforcement programs or upholding
11 community standards of decency.

12 C. Interest accruing on investments and deposits of the fund
13 shall be credited to the fund, shall not revert to the General Fund
14 and shall be carried forward into the subsequent fiscal year.

15 D. Any balance in the fund remaining at the end of a fiscal
16 year shall not revert to the General Fund but shall be carried
17 forward into the subsequent fiscal year.

18 E. The Attorney General or designee shall annually evaluate
19 activities conducted under this section and shall, on or before the
20 fifteenth of February of each year, submit an annual report
21 containing the result of the evaluation to the Secretary of the
22 Oklahoma State Senate and the Chief Clerk of the Oklahoma House of
23 Representatives and notify the Legislature that the report is
24 available. The report shall include:

1 1. The amount of filter deactivation fees received under
2 paragraph 4 of subsection D of Section 3 of this act;

3 2. The amount of live adult entertainment admission fees
4 received under subsection A of Section 8 of this act;

5 3. The manner in which the monies deposited in the grant fund
6 are distributed; and

7 4. The manner in which the entities that received funds
8 pursuant to subsection B of this section utilized said funds.

9 F. The Attorney General or designee shall be authorized to:

10 1. Determine eligibility requirements for any grant awarded
11 under the provisions of this section;

12 2. Require grant recipients to offer minimum services for a
13 period of time before receiving said grant and continue to offer
14 minimum services during the grant period; and

15 3. Require a grant recipient to submit financial and
16 programmatic reports.

17 G. The Attorney General shall be prohibited from expending more
18 than ten percent (10%) of the available funds on the administration
19 of the fund.

20 SECTION 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1038 of Title 15, unless there
22 is created a duplication in numbering, reads as follows:
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1 A. Upon the effective date of this act, an admission fee of
2 Five Dollars (\$5.00) shall be imposed for each entry by each
3 customer admitted to a live adult entertainment establishment.

4 B. The fee prescribed by subsection A of this section shall be
5 remitted quarterly to the Oklahoma Tax Commission on such forms as
6 the Commission may prescribe for such purpose. All required forms
7 and remittances shall be filed with the Tax Commission no later than
8 the fifteenth day of the month following the close of each calendar
9 quarter.

10 C. The Tax Commission shall apportion all revenues derived from
11 the fee to the Oklahoma Human Trafficking and Child Exploitation
12 Prevention Grant Fund established in Section 7 of this act.

13 The Tax Commission shall prescribe the method of administration,
14 payment, collection and enforcement of the fee imposed by this
15 section.

16 D. The admission fee is not content based but shall be imposed
17 and remitted to the state to offset secondary harmful effects, to
18 help the state uphold community standards of decency, to combat sex-
19 related crimes and to be used as described in subsection B of
20 Section 7 of this act.

21 E. The admission fee shall be in addition to all other taxes
22 imposed on the business that offers live adult entertainment.

23 F. Each live adult entertainment establishment shall record
24 daily in the manner required by the Tax Commission the number of

1 customers admitted to the business. The business shall maintain the
2 records for the period required by the Tax Commission and make the
3 records available only for inspection and audit on request by the
4 Tax Commission. The records shall not contain the names or personal
5 information of any of the customers of the live adult entertainment
6 establishment.

7 G. This section shall not require a live adult entertainment
8 establishment to impose a tax on customers of the establishment.
9 The live adult entertainment establishment shall have the discretion
10 to determine the manner by which the establishment derives the funds
11 required to pay the fee imposed under the provisions of this
12 section.

13 SECTION 9. This act shall become effective November 1, 2021.

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