

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2931

By: Randleman

AS INTRODUCED

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; prohibiting retailers from sharing filter deactivation information with consumers; 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 Revolving Fund; stating purpose of the fund; directing the Attorney General to utilize funds for specific needs and services; providing for the use of accrued interest amounts and remaining balances in the revolving fund; directing the Attorney General to evaluate activities of grant recipients and submit annual reports to certain state

1 officials; specifying contents of annual report;
2 authorizing the Attorney General to establish
3 eligibility requirements for grant recipients;
4 imposing fee for customers entering live adult
5 entertainment establishments; directing remittance of
6 said fee on a quarterly basis to the Tax Commission;
7 directing deposit of fee into certain revolving fund;
8 stating purpose of admission fee; directing live
9 adult entertainment establishments to record daily
10 number of customers; requiring the maintenance of
11 certain records; providing for the inspection and
12 auditing of records by the Tax Commission; providing
13 discretion on collecting and remitting admission fee;
14 providing for codification; and providing an
15 effective date.

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

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

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

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

As used in the Human Trafficking and Child Exploitation
Prevention Act:

1. "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

1 on the transmission of that electronic serial number along with a
2 mobile identification number, which is assigned by the cellular
3 telephone carrier, in the form of radio signals through cell sites
4 and mobile switching stations;

5 2. "Child pornography" has the same meaning as provided for in
6 Section 1024.1 of Title 21 of the Oklahoma Statutes;

7 3. "Computer" means an electronic, magnetic, optical,
8 electrochemical, or other high-speed data-processing device
9 performing logical, arithmetic or storage functions, and includes
10 any data storage facility or communications facility directly
11 related to or operating in conjunction with such device, but such
12 term does not include an automated typewriter or typesetter, a
13 portable handheld calculator, or other similar device;

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

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

21 6. "Filter" means digital blocking capability, hardware or
22 software that restricts or blocks Internet access to websites,
23 electronic mail, chat or other Internet-based communications based
24 on category, site or content and may include a digital blinder rack

1 that can be deactivated by a retailer upon the satisfaction of
2 certain nominal conditions;

3 7. "Harmful to minors" has the same meaning as provided for in
4 Section 1040.75 of Title 21 of the Oklahoma Statutes;

5 8. "Human trafficking" has the same meaning as provided for in
6 Section 748 of Title 21 of the Oklahoma Statutes;

7 9. "Internet" means the international computer network of
8 interoperable packet switched data networks;

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

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

18 12. "Live adult entertainment establishment" means a business
19 in which, as the major activity, customers congregate primarily for
20 the purpose of viewing or associating with employees who display
21 anatomical areas designed to provide sexual stimulation or sexual
22 gratification including, but not limited to, human genitals, the
23 immediate pubic region or pubic hair, buttocks to the extent of
24 exposing the immediate anal area, female breasts to points below the

1 nipples, male genitals in a state of erection even if covered with
2 opaque clothing, and all of the aforementioned anatomical areas when
3 covered only by transparent or diaphanous clothing;

4 13. "Minor" means any unmarried person under the age of
5 eighteen (18) years;

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

15 15. "Obscene material" has the same meaning as provided for in
16 Section 1024.1 of Title 21 of the Oklahoma Statutes and includes
17 Internet websites that:

18 a. are known to facilitate human trafficking or
19 prostitution, and

20 b. display or depict images that are harmful to minors or
21 that constitute sadomasochistic abuse, sexual
22 excitement, sexual conduct or revenge pornography;

23 16. "Personal identification information" means any
24 information that identifies a person including a photograph, Social

1 Security number, driver license number, name, email address, home
2 address or telephone number of an individual;

3 17. "Prostitution" has the same meaning as provided for in
4 Section 1030 of Title 21 of the Oklahoma Statutes;

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

9 19. "Revenge pornography" means images promoting the exposure
10 of a person which may be a criminal offense under the provisions of
11 Section 1040.13b of Title 21 of the Oklahoma Statutes;

12 20. "Sadomasochistic abuse" has the same meaning as provided
13 for in Section 1040.75 of Title 21 of the Oklahoma Statutes;

14 21. "Sexual conduct" has the same meaning as provided for in
15 Section 1024.1 of Title 21 of the Oklahoma Statutes;

16 22. "Sexual excitement" has the same meaning as provided for in
17 Section 1040.75 of Title 21 of the Oklahoma Statutes; and

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

22 a. is open to the public,

23 b. has more than seventy-five million (75,000,000)

24 subscribers,

- 1 c. from its inception, has not been specifically
2 affiliated with any one religion or political party,
3 and
4 d. provides a means for the users of its website to
5 report obscene materials and has in place procedures
6 for evaluating those reports and thereafter, removing
7 said obscene material.

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

11 A. A retailer that manufactures, sells, offers for sale,
12 leases, or distributes an Internet-enabled device shall ensure that
13 the product is equipped with an active and operating filter prior to
14 sale that blocks by default websites that:

- 15 1. Are known to facilitate human trafficking or prostitution;
16 and
17 2. Display child pornography, revenge pornography or obscene
18 material harmful to minors.

19 B. A retailer that manufactures, sells, offers for sale, leases
20 or distributes an Internet-enabled device shall:

- 21 1. Make reasonable and ongoing efforts to ensure that a
22 product's filter functions properly;
23 2. Establish a reporting mechanism, such as a website or call
24 center, to allow a consumer to report unblocked websites displaying

1 content described in subsection A of this section or to report
2 blocked websites that are not displaying content described in
3 subsection A of this section;

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

8 4. Not block access to websites that:

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

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

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

- 24 1. Requests that the capability be disabled;

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

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

5 4. Pays a one-time, filter deactivation fee of Twenty Dollars
6 (\$20.00) to be remitted quarterly to the Oklahoma Tax Commission to
7 be deposited into the Oklahoma Human Trafficking and Child
8 Exploitation Prevention grant fund established under the provisions
9 of Section 7 of this act.

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

20 F. Nothing in this act shall be construed to prevent a retailer
21 of an Internet-enabled device from charging a reasonable, separate
22 fee to deactivate the filter which may then be authorized to retain
23 for profit.

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

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

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

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

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

10 C. A retailer of an Internet-enabled device that fails to
11 comply with a duty described in subsections A and B of this section
12 has engaged in an unfair and deceptive trade practice in violation
13 of the Oklahoma Consumer Protection Act and may be subject to the
14 penalties provided for therein.

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

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1035 of Title 15, unless there
23 is created a duplication in numbering, reads as follows:
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1 A. It shall be unlawful for a retailer of an Internet-enabled
2 device to knowingly:

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

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

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

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

14 B. A retailer of an Internet-enabled device that commits an
15 offense under the provisions of subsection A of this section shall,
16 upon conviction, be guilty of a misdemeanor subject to a fine not
17 exceeding One Thousand Dollars (\$1,000.00), or by imprisonment in a
18 county jail for a term not exceeding two (2) days, or by both such
19 fine and imprisonment. A retailer convicted of a second violation
20 shall be subject to a fine not exceeding Two Thousand Five Hundred
21 Dollars (\$2,500.00), or by imprisonment in a county jail for a term
22 not exceeding ten (10) days, or by both such fine and imprisonment.
23 A retailer convicted of a third or subsequent offense shall be
24 subject to a fine not exceeding Two Thousand Five Hundred Dollars

1 (\$2,500.00), or by imprisonment in a county jail for a term not
2 exceeding sixty (60) days, or by both such fine and imprisonment.

3 C. A retailer of an Internet-enabled device that commits an
4 offense under the provisions of subsection A of this section has
5 engaged in an unfair and deceptive trade practice in violation of
6 the Oklahoma Consumer Protection Act and may be subject to the
7 penalties provided for therein.

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

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

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

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

18 2. Products produced or sold before the effective date of this
19 act; and

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

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

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

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

19 1. Promote throughout the state, the development of locally-
20 based nonprofit programs for the survivors of sexual-related
21 offenses and support for quality services to said survivors;

22 2. Empower government and nongovernment entities working to
23 uphold community standards of decency to protect children and
24 strengthen families;

1 3. Prevent or offset the costs of sex-related offenses; and

2 4. Maximize human flourishing and protect the safety, health
3 and welfare of the public.

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

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

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

18 2. The needs of the Department of Mental Health and Substance
19 Abuse Services, District Attorney's Council and the State Department
20 of Health;

21 3. The needs of the Oklahoma Crime Victims Compensation Board;

22 4. Substance abuse services to persons with substance abuse
23 problems;

- 1 5. Counselors and victim advocates who are trained to assist
- 2 victims of domestic violence and sexual abuse;
- 3 6. Shelters for persons who have been exposed to prostitution
- 4 or sex trafficking;
- 5 7. Research-based organizations;
- 6 8. Faith-based organizations working to uphold community
- 7 standards of decency and assisting victims of human trafficking or
- 8 other sex offenses;
- 9 9. Child advocacy centers;
- 10 10. Organizations that provide legal advocacy to abused,
- 11 neglected and at-risk children;
- 12 11. Physical and mental health services;
- 13 12. Temporary and permanent housing placemen;
- 14 13. Employment, placement, education and training;
- 15 14. Independent school districts;
- 16 15. Family counseling and therapy;
- 17 16. Law enforcement;
- 18 17. Musical, writing, design, cinematic or pictorial creative
- 19 art projects that promote decency;
- 20 18. Regional nonprofit providers of civil legal services to
- 21 provide legal assistance for sexual assault victims;
- 22 19. Grants to support technology in rape crisis centers;
- 23 20. Sexual violence awareness and prevention campaigns;
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1 21. Scholarships for students demonstrating outstanding
2 character or leadership skills; and

3 22. Any other state agency or organization for the purpose of
4 conducting human trafficking enforcement programs or upholding
5 community standards of decency.

6 C. Interest accruing on investments and deposits of the fund
7 shall be credited to the fund, shall not revert to the general fund
8 and shall be carried forward into the subsequent fiscal year.

9 D. Any balance in the fund remaining unexpected at the end of a
10 fiscal year shall not revert to the general fund but shall be
11 carried forward into the subsequent fiscal year.

12 E. The Attorney General shall annually evaluate activities
13 conducted under this section and shall, on or before the fifteenth
14 of February of each year, submit an annual report containing the
15 result of the evaluation to the President Pro Tempore of the
16 Oklahoma State Senate and the Speaker of the Oklahoma House of
17 Representatives. The report shall include:

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

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

22 3. The manner in which the monies deposited in the revolving
23 fund are distributed; and
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1 4. The manner in which the entities that received funds
2 pursuant to subsection B of this section utilized said funds.

3 F. The Attorney General shall be authorized to:

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

6 2. Require a grant applicant to offer minimum services for a
7 period of time before receiving said grant and continue to offer
8 minimum services during the grant period; and

9 3. Require a grant recipient to submit financial and
10 programmatic reports.

11 G. The Attorney General shall be prohibited from expend more
12 than ten percent (10%) of the available funds on the administration
13 of the fund.

14 SECTION 8. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1038 of Title 15, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Upon the effective date of this act, an admission fee of
18 Five Dollars (\$5.00) shall be imposed for each entry by each
19 customer admitted to a live adult entertainment establishment.

20 B. The fee prescribed by subsection A of this section shall be
21 remitted quarterly to the Oklahoma Tax Commission on such forms as
22 the Commission may prescribe for such purpose. All required forms
23 and remittances shall be filed with the Tax Commission no later than
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1 the fifteenth day of the month following the close of each calendar
2 quarter.

3 C. The Tax Commission shall apportion all revenues derived from
4 the fee to the Oklahoma Human Trafficking and Child Exploitation
5 Prevention Revolving Fund established in Section 7 of this act.

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

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

13 F. Each live adult entertainment establishment shall record
14 daily in the manner required by the Tax Commission the number of
15 customers admitted to the business. The business shall maintain the
16 records for the period required by the Tax Commission and make the
17 records available only for inspection and audit on request by the
18 Tax Commission. The records shall not contain the names or personal
19 information of any of the customers of the live adult entertainment
20 establishment.

21 G. This section shall not require a live adult entertainment
22 establishment to impose a tax on customers of the establishment.
23 The live adult entertainment establishment shall have the discretion
24 to determine the manner by which the establishment derives the funds

1 required to pay the fee imposed under the provisions of this
2 section.

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

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