

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1864

By: Jett

AS INTRODUCED

An Act relating to Internet-enabled devices; creating the Save Our Children Act (SOCA); 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 construing provision; directing the Attorney General to prepare and make available certain form; requiring retailer 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; making retailers subject to penalties for deceptive trade practices; providing for damages; directing court to assess certain factors for violation; providing exemptions to provisions of act; providing for codification; and providing a conditional effective date.

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

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

4 This act shall be known and may be cited as the "Save Our
5 Children Act" (SOCA).

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

9 A. As used in this act:

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

17 2. "Child pornography" has the same meaning as defined under
18 Section 1024.1 of Title 21 of the Oklahoma Statutes;

19 3. "Computer" means an electronic, magnetic, optical,
20 electrochemical, or other high-speed, data-processing device
21 performing logical, arithmetic, or storage functions, and includes
22 any data storage facility, or communications facility directly
23 related to or operating in conjunction with such device, but such
24

1 term does not include an automated typewriter or typesetter, a
2 portable handheld calculator, or other similar device;

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

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

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

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

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

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

22 10. "Internet-enabled device" means a cellular telephone,
23 computer, data communications device, or other product manufactured,
24

distributed or sold in this state that provides Internet access or plays a material role in distributing content on the Internet;

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

12. "Minor" means any unmarried person under the age of eighteen (18) years old;

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

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

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

14. "Personal identification information" means any information that identifies a person including a photograph, Social Security number, driver license number, name, e-mail address, home address, or telephone number of an individual;

15. "Prostitution" has the same meaning as provided in Section 1030 of Title 21 of the Oklahoma Statutes;

1 16. "Retailer" means any person who regularly engages in the
2 manufacturing, sale, offer for sale or lease of Internet-enabled
3 devices or services in this state that makes content accessible on
4 the Internet. The term includes Internet-service providers;

5 17. "Revenge pornography" means images promoting the exposure
6 of a person which may be a criminal offense under the provisions of
7 Section 1040.13b of Title 21 of the Oklahoma Statutes;

8 18. "Sadomasochistic abuse" has the same meaning as provided in
9 Section 1040.75 of Title 21 of the Oklahoma Statutes;

10 19. "Sexual conduct" has the same meaning as provided in
11 Section 1024.1 of Title 21 of the Oklahoma Statutes;

12 20. "Sexual excitement" has the same meaning as provided in
13 Section 1040.75 of Title 21 of the Oklahoma Statutes; and

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

- 18 a. is open to the public,
- 19 b. has more than seventy-five million (75,000,000)
20 subscribers,
- 21 c. from its inception, has not been specifically
22 affiliated with any one religion or political party,
23 and

1 d. provides a means for the users of its website to
2 report obscene material and has in place procedures
3 for evaluating these reports and thereafter, removing
4 the obscene material.

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

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

12 1. Are known to facilitate human trafficking or prostitution;
13 and

14 2. Display child pornography, revenge pornography, or obscene
15 material harmful to minors.

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

18 1. Make reasonable and ongoing efforts to ensure that a
19 product's filter functions properly;

20 2. Establish a reporting mechanism, such as a website or call
21 center, to allow a consumer to report unblocked websites displaying
22 content described in subsection A of this section or to report
23 blocked websites that are not displaying content described in
24 subsection A of this section;

1 3. Report child pornography received through the reporting
2 mechanism to the CyberTipline of the National Center for Missing and
3 Exploited Children in accordance with the provisions of 18 U.S.C
4 Section 2258A; and

5 4. Not block access to websites that:

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

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

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

- 21 1. Requests that the capability be disabled;
- 22 2. Presents personal identification information to verify that
23 the consumer is eighteen (18) years of age or older; and

1 3. Acknowledges receiving a warning regarding the potential
2 danger of deactivating the filter.

3 E. Nothing in this act shall be construed to prevent a retailer
4 of an Internet-enabled device from charging a reasonable, separate
5 fee to deactivate the filter which may then be authorized to retain
6 for profit.

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

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

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

21 A. If a filter blocks a website that is not displaying content
22 described in subsection A of Section 3 of this act and the block is
23 reported to a call center or other reporting mechanism described in
24 paragraph 2 of subsection B of Section 3 of this act, the website
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1 shall be unblocked within five (5) days after the block was first
2 reported. A consumer or the Attorney General may seek judicial
3 relief to unblock a website that was wrongfully blocked by the
4 filter. The prevailing party in a civil litigation may seek
5 attorney fees, costs, and other forms of relief.

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

14 C. It shall be an affirmative defense in a civil action to a
15 charge of violating this section that the failure to block a website
16 displaying the content described in subsection A of Section 3 of
17 this act was limited to institutions or organizations having
18 scientific, educational or other similar justifications.

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

22 A. It shall be unlawful for a retailer of an Internet-enabled
23 device to knowingly:
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1 1. Sell an Internet-enabled device without an activated filter
2 that at least makes an attempt to block by default websites that
3 display content described in subsection A of Section 3 of this act;

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

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

8 4. Disclose to a third party the name or the personal
9 identification information of adult consumers who have elected to
10 deactivate a productions filter in violation of subsection G of
11 Section 3 of this act without a court order direction otherwise.

12 B. A retailer of an Internet-enabled device that commits an
13 offense under subsection A of this section shall be fined no more
14 than Five Hundred Dollars (\$500.00) for a first offense and no more
15 than One Thousand Dollars (\$1,000.00) for each subsequent offense
16 under subsection A of this section.

17 C. The Attorney General or consumer may cause this section to
18 be enforced by filing a civil suit.

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

22 A. A retailer of an Internet-enabled device that fails to
23 comply with the provisions in subsection A or B of Section 3 of this
24 act or commits an offense under subsection A of Section 4 of this

1 act has engaged in an unlawful practice in violation of the Oklahoma
2 Consumer Protection Act and may be subject to the penalties provided
3 for therein.

4 B. The Attorney General shall enforce the provisions of this
5 section.

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

9 In assessing the amount of a civil penalty for a violation of
10 this act, the court shall consider the following:

- 11 1. The nature and extent of the violation;
 - 12 2. The number and severity of the violations;
 - 13 3. The economic effect of the penalty on the violator;
 - 14 4. The good faith measures the violator took to comply with
15 this act;
 - 16 5. The timing of the measures the violator took to comply with
17 this act;
 - 18 6. The willfulness of the violator's misconduct;
 - 19 7. The deterrent effect that the imposition of the penalty
20 would have on both the violator and the regulated community as a
21 whole; and
 - 22 8. Any other factor that the court determines justice requires.
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SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1038 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this act shall not apply to:

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

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

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

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

SECTION 9. The provisions of this act shall not become effective as law until the adoption of similar legislation from four other states and, within ten days of the final state's adoption, the Attorney General shall advise the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives of the date this act becomes effective.

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