

By Senator Osgood

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1                   A bill to be entitled  
2       An act relating to device filtering; creating s.  
3       501.173, F.S.; defining terms; requiring manufacturers  
4       of tablets or smartphones to manufacture such devices  
5       so that a filter meeting certain requirements is  
6       enabled upon activation of the device in this state;  
7       subjecting such manufacturer to civil and criminal  
8       liability for certain acts of noncompliance; providing  
9       an exception; providing civil liability for  
10      individuals who enable a password to remove the  
11      required filter on a device in the possession of a  
12      minor under certain circumstances; authorizing the  
13      Attorney General to enforce this act; providing  
14      damages; authorizing a parent or legal guardian to  
15      bring a civil action against certain parties who  
16      violate this act under certain circumstances;  
17      providing criminal penalties; providing an effective  
18      date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22       Section 1. Section 501.173, Florida Statutes, is created to  
23 read:

24       501.173 Device filtering of content harmful to minors.—

25       (1) DEFINITIONS.—As used in this section, the term:

26       (a) "Activate" means the process of powering on a device  
27 and associating it with a new user account.

28       (b) "Device" means a tablet or a smartphone manufactured on  
29 or after January 1, 2024.

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30 (c) "Filter" means software installed on a device which is  
31 capable of preventing the device from accessing or displaying  
32 material that is harmful to minors through the Internet or  
33 through an application owned and controlled by the manufacturer  
34 and installed on the device.

35 (d) "Harmful to minors" has the same meaning as in s.  
36 847.001.

37 (e) "Manufacturer" means a person that:  
38 1. Is engaged in the business of manufacturing a device;  
39 2. Holds the patents for the device it manufactures; and  
40 3. Has a registered agent in this state in accordance with  
41 part I of chapter 607.

42 (f) "Minor" means an individual under the age of 18 who is  
43 not emancipated, married, or a member of the Armed Forces of the  
44 United States.

45 (g) "Password" means a string of characters or numbers or  
46 any other secure method used to enable, deactivate, modify, or  
47 uninstall a filter on a device.

48 (h) "Smartphone" means an electronic device that combines a  
49 cellular phone with a handheld computer, typically offering  
50 Internet access, data storage, texting, and e-mail capabilities.

51 (i) "Tablet" means an Internet-ready device equipped with  
52 an operating system, a touchscreen display, and a rechargeable  
53 battery which has the ability to support access to a cellular  
54 network.

55 (2) FILTER REQUIRED.—Beginning on January 1, 2024, a  
56 manufacturer shall manufacture a device that, when activated in  
57 this state, automatically enables a filter that does all of the  
58 following:

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59 (a) Prevents the user from accessing or downloading  
60 material that is harmful to minors on any of the following:

- 61 1. A mobile data network.
- 62 2. An application owned and controlled by the manufacturer.
- 63 3. A wired Internet network.
- 64 4. A wireless Internet network.

65 (b) Notifies the user of the device when the filter blocks  
66 the device from downloading an application or accessing an  
67 Internet website.

68 (c) Gives a user with a password the opportunity to unblock  
69 a filtered application or website.

70 (d) Reasonably precludes a user other than a user with a  
71 password the opportunity to deactivate, modify, or uninstall the  
72 filter.

73 (e) Allows adult users, or parents or legal guardians of  
74 minors, to deactivate the filter for the device or for specific  
75 content.

76 (3) MANUFACTURER LIABILITY.—

77 (a) Beginning January 1, 2024, a manufacturer of a device  
78 is subject to civil and criminal liability if:

- 79 1. The device is activated in this state;
- 80 2. The device does not, upon activation, enable a filter  
81 that complies with the requirements described in subsection (2);  
82 and

83 3. A minor accesses material that is harmful to minors on  
84 the device.

85 (b) Notwithstanding paragraph (a), this section does not  
86 apply to a manufacturer that makes a good faith effort to  
87 provide a device that, upon activation of the device in this

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88 state, automatically enables a generally accepted and  
89 commercially reasonable filter in accordance with this section  
90 and industry standards.

91 (4) INDIVIDUAL LIABILITY.—With the exception of a minor's  
92 parent or legal guardian, any person may be liable in a civil  
93 action for enabling the password to remove the filter on a  
94 device in the possession of a minor if the minor accesses  
95 content that is harmful to minors on the device.

96 (5) PROCEEDINGS BY THE ATTORNEY GENERAL.—

97 (a) If the Attorney General has reason to believe a person  
98 violated or is violating this section, the Attorney General,  
99 acting in the public interest, may do any of the following:

100 1. Enjoin an action that constitutes a violation of this  
101 section by issuing a temporary restraining order or preliminary  
102 or permanent injunction.

103 2. Bring an action to recover from the alleged violator a  
104 civil penalty not to exceed \$5,000 per violation and not to  
105 exceed a total of \$50,000 in aggregate, as determined by the  
106 court.

107 3. Bring an action to recover from the alleged violator the  
108 Attorney General's reasonable expenses, investigative costs, and  
109 attorney fees.

110 4. Bring an action to obtain other appropriate relief as  
111 provided for under this section.

112 (b) The Attorney General, in addition to other powers  
113 conferred upon him or her by this subsection, may issue  
114 subpoenas to any person and conduct hearings in aid of any  
115 investigation or inquiry.

116 (c) The Attorney General may seek the revocation of any

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117 license or certificate authorizing a manufacturer to engage in  
118 business in this state.

119 (d) For purposes of assessing a penalty under this section,  
120 a manufacturer is considered to have committed a separate  
121 violation for each device manufactured on or after January 1,  
122 2024, which violates this section.

123 (6) CIVIL ACTION BY THE PARENT OR LEGAL GUARDIAN.—

124 (a) Any parent or legal guardian of a minor who accesses  
125 content that is harmful to minors in violation of this section  
126 may bring a private cause of action in any court of competent  
127 jurisdiction against a manufacturer that failed to comply with  
128 this section. A prevailing plaintiff may recover any of the  
129 following:

130 1. Actual damages or, in the discretion of the court where  
131 actual damages are difficult to ascertain due to the nature of  
132 the injury, liquidated damages in the amount of \$50,000 for each  
133 violation.

134 2. When a violation is found to be knowing and willful,  
135 punitive damages in an amount determined by the court.

136 3. Nominal damages.

137 4. Such other relief as the court deems appropriate,  
138 including court costs and expenses.

139 5. For a prevailing plaintiff, the collection of attorney  
140 fees against a violating manufacturer.

141 (b) This section does not preclude the bringing of a class  
142 action lawsuit against a manufacturer when its conduct in  
143 violation of this section is knowing and willful.

144 (c) Any parent or legal guardian of a child may bring an  
145 action in a court of competent jurisdiction against any person

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146 who is not the parent or legal guardian of the child and who  
147 enables the password to remove the filter from a device in the  
148 possession of the child which results in the child's exposure to  
149 content that is harmful to minors.

150 (7) CRIMINAL PENALTIES.—

151 (a) Beginning on January 1, 2024, a person, with the  
152 exception of a parent or legal guardian, may not enable the  
153 password to remove the filter on a device in the possession of a  
154 minor.

155 (b) A person who violates paragraph (a) is subject to a  
156 fine not to exceed \$5,000 for a first offense and not to exceed  
157 \$50,000 for a second offense. However, a person who violates  
158 paragraph (a) for a second or subsequent time within 1 year of  
159 the first violation commits a misdemeanor of the first degree,  
160 punishable as provided in s. 775.082 or s. 775.083.

161 Section 2. This act shall take effect July 1, 2023.