

1 suite, its subsequent extensions, or other internet protocol-compatible protocol; and

2 (c) provides, uses, or makes publicly or privately accessible high-level services layered on
3 communications and related infrastructure.

4 (5) "Manufacturer" means a person or company that:

5 (a) is engaged in the business of manufacturing a device;

6 (b) (i) holds the patents for the device it manufactures; or

7 (ii) holds the patents for the operating system on a device; and

8 (c) has a designated commercial registered agent as required by 35-7-106.

9 (6) "Minor" means an individual under 18 years of age who is not emancipated, married, or a
10 member of the armed forces of the United States.

11 (7) "Obscene content" has the same meaning as provided in 45-8-201(2).

12 (8) "Operating system" means software that manages all of the other application programs on a
13 device.

14 (9) "Password" means a string of characters or other secure method used to enable, deactivate,
15 modify, or uninstall a filter on a device.

16 (10) "Retailer" means a person who is not a manufacturer who sells devices directly to consumers.
17 The term includes an employee of a retailer acting in the course and scope of the employee's employment.

18 (11) "Smartphone" means an electronic device that combines a cell phone with a handheld
19 computer and typically offers internet access through a browser or search engine, data storage, text, and e-mail
20 capabilities.

21 (12) "Tablet" means a mobile device equipped with a mobile operating system, touchscreen display,
22 rechargeable battery, and the ability to support access to a cellular network.

23

24 NEW SECTION. **Section 2. Filter required.** A device activated in the state must:

25 (1) contain a filter;

26 (2) ask the user to provide the user's age during activation and account setup;

27 (3) automatically enable the filter when the user is a minor based on the age provided by the user
28 as provided in subsection (2);

- 1 (4) allow a password to be established for the filter;
- 2 (5) notify the user when the filter blocks the device from accessing a website; and
- 3 (6) provide the option to deactivate and reactivate the filter for a user who is not a minor and who
- 4 has the filter password.

5

6 **NEW SECTION. Section 3. Manufacturer liability.** (1) The manufacturer of a device is subject to

7 civil liability if:

- 8 (a) the device is activated in the state;
- 9 (b) the device does not enable a filter that complies with the requirements provided in [section 2]
- 10 on activation; and
- 11 (c) a minor is able to access obscene content on the device.

12 (2) Notwithstanding subsection (1), this section does not apply to a manufacturer that makes a

13 good faith effort to provide a device that automatically enables a filter as required by [section 2] on activation of

14 the device in the state.

- 15 (3) Nothing in [sections 1 through 6]:
- 16 (a) applies to a device manufactured before [the effective date of this act]; or
- 17 (b) creates a cause of action against the retailer of a device.

18

19 **NEW SECTION. Section 4. Individual liability.** (1) A person may be liable in a civil and criminal

20 action if the person intentionally enables the password to remove the filter on a device in the possession of a

21 minor and the minor accesses obscene content on the device.

- 22 (2) This section does not apply to the parent or legal guardian of a minor.

23

24 **NEW SECTION. Section 5. Proceedings -- action by attorney general.** (1) The attorney general

25 may bring an action in court against a person for a violation of [sections 1 through 6] to:

- 26 (a) enjoin any action that constitutes a violation of [sections 1 through 6] by the issuance of a
- 27 temporary restraining order or preliminary or permanent injunction;
- 28 (b) recover from a violator a civil penalty not to exceed \$5,000 for each violation and not to exceed

1 \$50,000 in aggregate;

2 (c) recover from a violator the attorney general's reasonable expenses, investigative costs, and
3 attorney fees; and

4 (d) obtain other appropriate relief.

5 (2) The attorney general may seek revocation of a license or certificate authorizing a manufacturer
6 to engage in business in the state if, after the manufacturer is found to have violated provisions of [sections 1
7 through 6], the manufacturer demonstrates a repeated pattern of violations of the provisions of [sections 1
8 through 6].

9 (3) For the purposes of assessing a penalty under this section, a manufacturer is considered to
10 have committed a separate violation for each device manufactured after [the effective date of this act] that
11 violates the provisions of [section 2].

12
13 **NEW SECTION. Section 6. Parent or legal guardian -- civil action.** (1) A parent or legal guardian
14 of a minor who accesses obscene content on a device in violation of [section 2] may bring a private cause of
15 action against a manufacturer in a court of competent jurisdiction.

16 (2) A parent or legal guardian bringing an action under subsection (1) may recover:

17 (a) (i) actual damages; or

18 (ii) if actual damages are difficult to ascertain due to the nature of the injury, \$50,000 for each
19 violation;

20 (b) if a violation is found to be knowing and willful, punitive damages in an amount determined by
21 the court;

22 (c) nominal damages;

23 (d) attorney fees; and

24 (e) any other relief the court considers appropriate, including court costs and expenses.

25 (3) Nothing in this section precludes bringing a class action suit against a manufacturer if the
26 manufacturer's conduct in violation of [section 2] is knowing and willful.

27 (4) A parent or legal guardian of a minor may bring an action in a court of competent jurisdiction
28 against a person who:

