

SENATE, No. 540

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator ANTHONY R. BUCCO

District 25 (Morris and Somerset)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

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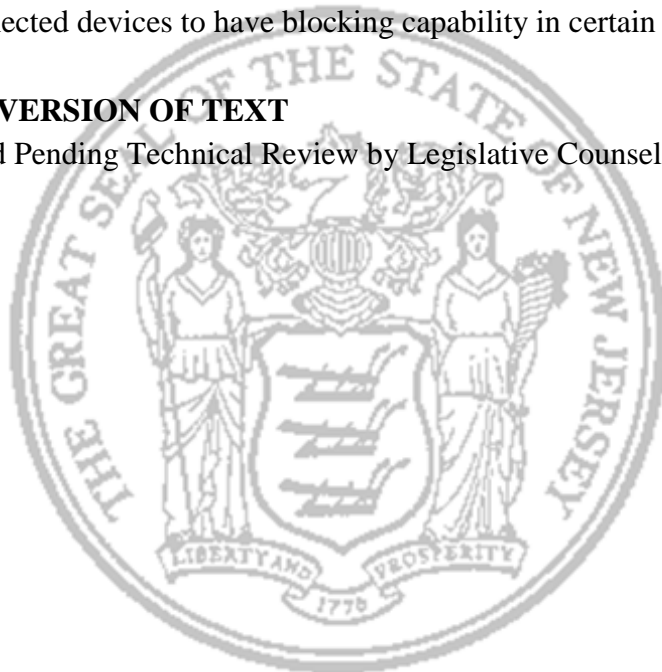
Senators Bateman, T.Kean, Van Drew, Cardinale, Pennacchio, Ruiz, Turner, Doherty, Pou, Stack, Thompson, Singer, Beach, Sacco, Vitale, Diegnan, Connors, Brown, Cunningham, Greenstein, Singleton and Corrado

SYNOPSIS

“Human Trafficking and Child Exploitation Prevention Act”; requires Internet-connected devices to have blocking capability in certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 10/16/2018)

1 AN ACT concerning obscene material and supplementing P.L.1960,
2 c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Human
8 Trafficking and Child Exploitation Prevention Act.”

9

10 2. a. It shall be an unlawful practice and a violation of
11 P.L.1960, c.39 (C.56:8-1 et seq.) to manufacture, sell, offer for sale,
12 lease, or distribute a product that makes content accessible on the
13 Internet:

14 (1) unless the product contains digital blocking capability that
15 renders any obscene material, as defined in N.J.S.2C:34-2 or
16 N.J.S.2C:34-3, inaccessible; and

17 (2) to a minor unless the digital blocking capability is active and
18 properly operating to make obscene material inaccessible.

19 b. A person who manufactures, sells, offers for sale, leases, or
20 distributes a product that makes content accessible on the Internet
21 shall:

22 (1) make reasonable and ongoing efforts to ensure that the
23 digital content blocking capability functions properly;

24 (2) establish a reporting mechanism, such as a website or call
25 center, to allow a consumer to report unblocked obscene material or
26 report blocked material that is not obscene;

27 (3) ensure that all child pornography and revenge pornography
28 is inaccessible on the product;

29 (4) prohibit the product from accessing any hub that facilitates
30 prostitution; and

31 (5) render websites that are known to facilitate human
32 trafficking, in violation of section 1 of P.L.2005, c.77 (C.2C:13-8),
33 inaccessible.

34

35 3. a. Any digital blocking capability may be deactivated after
36 a consumer:

37 (1) requests in writing that the capability be disabled;

38 (2) presents identification to verify that the consumer is 18 years
39 of age or older;

40 (3) acknowledges receiving a written warning regarding the
41 potential danger of deactivating the digital blocking capability; and

42 (4) pays a one-time \$20 digital access fee.

43 b. A person who manufactures, sells, offers for sale, leases, or
44 distributes a product that makes content accessible on the Internet
45 may elect to pay a \$20 opt-out fee for each product that enters this
46 State’s stream of commerce.

47 c. A person who manufactures, sells, offers for sale, leases, or
48 distributes a product that makes content accessible on the Internet

1 shall submit the funds collected as the digital access fee, pursuant to
2 paragraph (4) of subsection a. of this section, or the opt-out fee
3 pursuant to subsection b. of this section, to the State Treasurer each
4 quarter. The State Treasurer shall forward the funds collected to the
5 Attorney General to help fund the operations of the Commission on
6 Human Trafficking, established by section 1 of P.L.2013, c.51
7 (C.52:17B-237).

8

9 4. a. If the digital blocking capability blocks material that is
10 not obscene and the block is reported to a call center or reporting
11 website, the material shall be unblocked within a reasonable time,
12 but in no event later than five business days after the block is first
13 reported.

14 b. A consumer may seek judicial relief to unblock filtered
15 content.

16 c. If a person who manufactures, sells, offers for sale, leases,
17 or distributes a product that makes content accessible on the
18 Internet is unresponsive to a report of obscene material that has
19 breached the filter, the Attorney General or a consumer may file a
20 civil suit. The Attorney General or a consumer may seek damages
21 of up to \$500 for each piece of content that was reported but not
22 subsequently blocked. The prevailing party in the civil action may
23 seek attorneys' fees.

24

25 5. This act shall take effect immediately.

26

27

28 STATEMENT

29

30 This bill, to be known as the "Human Trafficking and Child
31 Exploitation Prevention Act," makes it an unlawful practice under
32 the consumer fraud act to manufacture, sell, offer for sale, lease, or
33 distribute a product that makes content accessible on the Internet
34 unless the product contains digital blocking capability that renders
35 any obscene material inaccessible. Additionally, it would be an
36 unlawful practice for a minor to receive such a product unless the
37 digital blocking capability is active and properly operating.

38 Under the bill, a person who manufactures, sells, offers for sale,
39 leases, or distributes a product that makes content accessible on the
40 Internet is to:

41 (1) make reasonable and ongoing efforts to ensure that the
42 digital content blocking capability functions properly;

43 (2) establish a reporting mechanism, such as a website or call
44 center, to allow a consumer to report unblocked obscene material or
45 report blocked material that is not obscene;

46 (3) ensure that all child pornography and revenge pornography
47 is inaccessible on the product;

1 (4) prohibit the product from accessing any hub that facilitates
2 prostitution; and

3 (5) render websites that are known to facilitate human
4 trafficking inaccessible.

5 An unlawful practice is punishable by a monetary penalty of not
6 more than \$10,000 for a first offense and not more than \$20,000 for
7 any subsequent offense. Additionally, a violation can result in
8 cease and desist orders issued by the Attorney General, the
9 assessment of punitive damages, and the awarding of treble
10 damages and costs to the injured.

11 The bill provides that any digital blocking capability may be
12 deactivated after a consumer: requests in writing that the capability
13 be disabled; presents identification to verify that he or she is 18
14 years of age or older; acknowledges receiving a written warning
15 regarding the potential danger of deactivating the digital blocking
16 capability; and pays a one-time \$20 digital access fee. A person
17 who manufactures, sells, offers for sale, leases, or distributes a
18 product that makes content accessible on the Internet may elect to
19 pay a \$20 opt-out fee for each product that enters this State's stream
20 of commerce. The digital access fee and opt-out fee would be
21 collected and submitted by the manufacturer or seller to the State
22 Treasurer each quarter, to be forwarded to the Attorney General to
23 help fund the operations of the Commission on Human Trafficking.

24 If the digital blocking capability blocks material that is not
25 obscene and the block is reported to a call center or reporting
26 website, the material is to be unblocked within a reasonable time,
27 but no later than five business days after the block is first reported.
28 A consumer may seek judicial relief to unblock filtered content.

29 The Attorney General or a consumer may file a civil suit for any
30 report of unblocked obscene material that does not receive a
31 response. The Attorney General or consumer may seek damages of
32 up to \$500 for each piece of content that was reported but not
33 subsequently blocked. The prevailing party in the civil action may
34 seek attorneys' fees.