

House File 313 - Introduced

HOUSE FILE 313

BY SALMON

A BILL FOR

1 An Act relating to requirements for specific digital content
2 blocking capabilities on products manufactured, distributed,
3 or sold in the state that make the internet accessible,
4 and provides for the collection and remittance of fees,
5 and provides for criminal and civil liability for certain
6 violations of the Act.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 710B.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Consumer*" means an individual who purchases a product
5 that makes the internet accessible from a person in this state
6 that manufactures, distributes, or sells such a product.

7 2. "*Full or partial nudity*" means the same as defined in
8 section 708.7.

9 3. "*Human trafficking*" means the same as defined in section
10 710A.1.

11 4. "*Obscene material*" means the same as defined in section
12 728.1.

13 5. "*Photograph or film*" means the same as defined in section
14 708.7.

15 6. "*Prohibited sexual act*" means the same as defined in
16 section 728.1.

17 7. "*Revenge pornography*" means a photograph or film
18 showing another person in a state of full or partial nudity or
19 engaged in a sex act that has been disseminated, published,
20 distributed, or posted without the consent of the person in the
21 photograph or film.

22 8. "*Sex act*" means the same as defined in section 702.17.

23 Sec. 2. NEW SECTION. 710B.2 Digital content blocking
24 capability requirement.

25 A person in this state that manufactures, distributes,
26 or sells a product that makes the internet accessible to a
27 consumer shall not manufacture, sell, or distribute the product
28 without an active and operating digital content blocking
29 capability that blocks all internet sites that contain the
30 following:

31 1. Obscene material.

32 2. Revenge pornography.

33 3. Sexual exploitation of a minor as described in section
34 728.12.

35 4. Promotion or facilitation of prostitution as described

1 in section 725.1.

2 5. Promotion or facilitation of human trafficking.

3 Sec. 3. NEW SECTION. 710B.3 Duty to maintain appropriate
4 functioning of digital content blocking capabilities.

5 A person in this state that manufactures, distributes, or
6 sells a product that makes the internet accessible to a user of
7 the product shall do all of the following:

8 1. Make reasonable and ongoing efforts to ensure proper
9 functioning of the digital content blocking capability in all
10 products manufactured, sold, or distributed.

11 2. Provide routine digital content blocking updates to a
12 consumer who has purchased a product containing digital content
13 blocking to ensure the ongoing quality and performance of the
14 digital content blocking.

15 3. Establish a telephone call center or internet site for a
16 consumer to report a failure of the digital content blocking
17 requirements of this chapter or to report digital content
18 blocking of an internet site not subject to the requirements
19 of section 710B.2.

20 4. Investigate a consumer's report of a violation of this
21 chapter and provide the consumer an appropriate digital content
22 blocking update within thirty days of the initial report if a
23 violation of section 710B.2 has occurred.

24 5. Investigate a consumer's report of digital content
25 blocking of an internet site not subject to the requirements of
26 section 710B.2 and if appropriate enable the consumer's access
27 to the internet site within thirty days of the initial report.

28 Sec. 4. NEW SECTION. 710B.4 Prohibition on digital content
29 blocking of certain internet sites.

30 A person in this state that manufactures, distributes,
31 or sells a product that makes the internet accessible to a
32 user of the product shall not use digital content blocking on
33 any such product to make any of the following internet sites
34 inaccessible:

35 1. A social media internet site that has an existing process

1 to manage consumer complaints.

2 2. An internet site not specified in section 710B.2.

3 3. An internet site that has the primary function of serving
4 as a search engine.

5 4. An internet site that makes movies available that are
6 rated restricted or below by the classification and ratings
7 administration of the motion picture association of America.

8 Sec. 5. NEW SECTION. 710B.5 **Restrictions on deactivation of**
9 **digital content blocking capability.**

10 1. A person in this state that manufactures, distributes,
11 or sells a product that makes the internet accessible shall
12 not share, sell, or distribute a method, source code, or any
13 other instruction to deactivate the digital content blocking
14 capability of the product unless all of the following apply:

15 a. A consumer who purchased the product submits a written
16 request for deactivation.

17 b. Proof that the consumer is age eighteen or older is
18 provided.

19 c. The manufacturer, distributor, or seller of the product
20 provides the consumer with a written warning that outlines the
21 dangers of deactivation.

22 d. The consumer signs an acknowledgment that a written
23 warning has been provided.

24 e. The consumer pays a one-time twenty-dollar deactivation
25 fee to be deposited into the human trafficking and child
26 exploitation prevention fund established pursuant to section
27 710B.6.

28 2. A person in this state that manufactures, distributes,
29 or sells a product that makes the internet accessible to a
30 consumer may charge the consumer an additional fee in order
31 for the manufacturer, distributor, or seller to deactivate the
32 digital content blocking capability of the product. The fee
33 must be reasonable and the manufacturer, distributor, or seller
34 may retain the fee.

35 Sec. 6. NEW SECTION. 710B.6 **Human trafficking and child**

1 **exploitation prevention fund.**

2 1. A manufacturer, distributor, or seller of a product
3 that makes the internet accessible shall annually remit all
4 deactivation fees collected under section 710B.5, subsection
5 1, paragraph "e", to the treasurer of state in the manner
6 prescribed by the treasurer of state.

7 2. A human trafficking and child exploitation prevention
8 fund is created in the state treasury as a separate fund
9 under the control of the department of justice. All moneys
10 deposited or paid into the fund pursuant to subsection 1 are
11 appropriated and made available to the department to be used
12 to provide grants to governmental and nongovernmental entities
13 and individuals involved with upholding community standards of
14 decency, strengthening families, or developing, expanding, or
15 strengthening programs for child victims of human trafficking,
16 to be used for any of the following:

17 a. Rape kit testing.

18 b. Physical and mental health services.

19 c. Temporary and permanent housing or shelter.

20 d. Employment, education, and job training.

21 e. Training for first responders and educational campaigns
22 for the public to increase awareness to prevent, and to protect
23 victims of, human trafficking, domestic violence, prostitution,
24 child abuse, and rape.

25 f. For medical examination costs pursuant to section 915.41,
26 for the department of justice's prosecutor-based victim service
27 coordination, including the duties defined in sections 910.3
28 and 910.6, for the awarding of funds to programs that provide
29 services and support to victims of domestic abuse pursuant to
30 chapter 236, for victims of sexual abuse as provided in chapter
31 236A, for reimbursement to the Iowa law enforcement academy for
32 domestic abuse and human trafficking training, for the support
33 of an automated victim notification system pursuant to section
34 915.10A, for training for victim service providers, for victim
35 service programming, to provide training concerning homicide,

1 domestic assault, sexual assault, stalking, harassment, and to
2 conduct outreach, awareness, and training on human trafficking
3 pursuant to section 710A.6.

4 *g.* Family counseling.

5 *h.* Creative arts that do not contain or promote obscene
6 material.

7 *i.* Border security.

8 *j.* State agency support programs assisting victims of human
9 trafficking.

10 *k.* To support the governor's initiatives on human
11 trafficking, programs upholding community standards of decency,
12 and state security.

13 *l.* Human trafficking enforcement programs.

14 3. Notwithstanding section 8.33, any balance in the fund on
15 June 30 of any fiscal year shall not revert to the general fund
16 of the state.

17 **Sec. 7. NEW SECTION. 710B.7 Criminal liability.**

18 1. A person in this state that knowingly manufactures,
19 distributes, or sells a product that makes the internet
20 accessible to a consumer of the product is guilty of an
21 aggravated misdemeanor if any of the following apply:

22 *a.* The product does not comply with section 710B.2.

23 *b.* The person that manufactures, distributes, or sells
24 the product provides a method, source code, or any other
25 instruction to deactivate the digital content blocking
26 capability of the product other than pursuant to a written
27 request to deactivate the product.

28 *c.* The person that manufactures, distributes, or sells the
29 product deactivates the digital content blocking capability in
30 a manner that violates section 710B.5.

31 2. Section 728.10 affirmative defense applies to this
32 section.

33 **Sec. 8. NEW SECTION. 710B.8 Civil cause of action and**
34 **injunctive relief.**

35 1. A consumer that purchases a product from a person in this

1 state that manufactures, distributes, or sells a product that
2 makes the internet accessible may bring a civil action seeking
3 relief and recover up to five hundred dollars in damages per
4 reported failure plus reasonable attorney fees and court costs
5 if the person's violation is substantiated pursuant to an
6 investigation conducted under section 710B.3, subsection 4.

7 2. The attorney general or county attorney may seek
8 injunctive relief if a person in this state that manufactures,
9 distributes, or sells a product that makes the internet
10 accessible to a consumer of the product violates section 710B.2
11 or 710B.3.

12 3. It shall be an affirmative defense in a civil action
13 pursuant to this section that a consumer purchased a product
14 that makes the internet accessible from a person in this state
15 that manufactures, distributes, or sells such a product, and
16 the product did not digitally block content pursuant to section
17 710B.2 because the internet site that is not blocked is the
18 registered domain of an institution or organization that has
19 a scientific, educational, artistic, literary, or similar
20 justification for making content pursuant to section 710B.2
21 accessible.

22 Sec. 9. NEW SECTION. 710B.9 **Applicability.**

23 1. This chapter applies to a person in this state that
24 manufactures, distributes, or sells a product on or after
25 January 1, 2020, that makes the internet accessible to a
26 consumer.

27 2. This chapter does not apply to a product that makes the
28 internet accessible to a consumer if the product was produced,
29 sold, or purchased prior to January 1, 2020.

30 3. This chapter does not apply to the sale of a product that
31 makes the internet accessible to a consumer by a person that is
32 not regularly engaged in the business of selling products that
33 make the internet accessible.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill relates to requirements for specific digital
3 content blocking capabilities on products manufactured,
4 distributed, or sold in the state that make the internet
5 accessible. The bill prohibits a person that manufactures,
6 distributes, or sells such products from manufacturing, selling
7 or distributing a product without an active and operating
8 digital content blocking capability that blocks any internet
9 site that contains material that is obscene or that constitutes
10 sexual exploitation of a minor, promotion or facilitation of
11 prostitution, promotion or facilitation of human trafficking,
12 or revenge pornography as defined in the bill.

13 The bill requires such a person to make reasonable and
14 ongoing efforts to ensure proper functioning of the digital
15 content blocking capability, to provide routine updates for
16 the digital content blocking to a consumer who has purchased
17 a product containing digital content blocking, to establish a
18 call center or internet site that allows consumers to report
19 a failure of the digital blocking or to report blocking of an
20 internet site that is not required to be blocked. In addition,
21 such a person is required to investigate a consumer's report
22 of a failure and provide an appropriate update to the digital
23 blocking capability within 30 days of the initial report, and
24 to investigate any consumer report of blocking of an internet
25 site that is not required to be blocked, and if appropriate,
26 enable consumer access to the incorrectly blocked site within
27 30 days of the initial report.

28 The bill prohibits blocking of social media internet sites
29 that have existing processes to manage consumer complaints or
30 blocking of any internet site that does not contain obscene
31 material, revenge pornography, sexual exploitation of a minor,
32 or promote or facilitate prostitution or human trafficking.
33 The bill also prohibits blocking an internet site that has the
34 primary function of serving as a search engine or an internet
35 site that makes movies available that are rated restricted or

1 below.

2 The bill prohibits a manufacturer, distributor, or seller
3 from sharing, selling, or distributing a method, source
4 code, or any other instruction to deactivate the digital
5 blocking capability unless a consumer who purchases a product
6 submits a written request for deactivation, provides proof
7 the consumer is age 18 or older, signs an acknowledgment that
8 a written warning outlining the dangers of deactivation has
9 been provided by the manufacturer, distributor, or seller, and
10 pays a one-time \$20 deactivation fee. The bill also allows a
11 manufacturer, distributor, or a seller to charge a consumer an
12 additional fee in order for the manufacturer, distributor, or
13 seller to deactivate the digital content blocking capability of
14 the product. The fee must be reasonable and the manufacturer,
15 distributor, or seller may retain the fee.

16 The manufacturer, distributor, or seller must annually
17 remit all deactivation fees that are collected to the
18 treasurer of state. The treasurer of state shall deposit
19 all fees received into the human trafficking and child
20 exploitation prevention fund established by the bill. All
21 moneys deposited or paid into the fund are appropriated and
22 made available to the department of justice to be used to
23 provide grants to governmental and nongovernmental entities
24 and individuals involved with upholding community standards of
25 decency, strengthening families, or developing, expanding, or
26 strengthening programs for child victims of human trafficking
27 to be used for any of the activities as detailed in the bill.

28 A person in this state that knowingly manufactures,
29 distributes, or sells a product that makes the internet
30 accessible is guilty of an aggravated misdemeanor if the
31 product does not contain the required digital content blocking
32 capabilities, or the person deactivates the digital content
33 blocking capability in a manner other than that authorized by
34 the bill, or the person provides a consumer who purchased a
35 product with a method, source code, or any other instruction

1 to deactivate the digital blocking capability. An aggravated
2 misdemeanor is punishable by confinement for no more than two
3 years and a fine of at least \$625 but not more than \$6,250.

4 The bill provides for a civil cause of action if a person
5 that manufactures, distributes, or sells a product that makes
6 the internet accessible does not respond appropriately to a
7 consumer's report of a failure of the digital content blocking
8 capability requirement. A consumer that purchased the product
9 may bring a civil action seeking relief and recover up to \$500
10 in damages per reported failure, plus reasonable attorney fees
11 and court costs. The attorney general or county attorney
12 may seek injunctive relief if products are sold without
13 the required digital content blocking or the manufacturer,
14 distributor, or seller fails to maintain the digital content
15 blocking capabilities, or fails to respond as required to a
16 consumer complaint.

17 The bill makes it an affirmative defense in a civil action
18 asserting that a consumer purchased a product that makes
19 the internet accessible from a person in this state that
20 manufactures, distributes, or sells such a product and the
21 product did not digitally block content as required by the
22 bill, because the internet site that is not blocked is the
23 registered domain of an institution or organization that has
24 a scientific, educational, artistic, literary, or similar
25 justification for making the content accessible.

26 The bill applies to a person in this state that manufactures,
27 distributes, or sells a product on or after January 1, 2020,
28 that makes the internet accessible to a consumer. The bill
29 does not apply to a product that makes the internet accessible
30 to a consumer if the product was produced, sold, or purchased
31 prior to January 1, 2020. The bill also does not apply to
32 the sale of a product that makes the internet accessible to
33 a consumer by a person that is not regularly engaged in the
34 business of selling products that make the internet accessible.