

House File 2114 - Introduced

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BY WILLS

A BILL FOR

1 An Act relating to minors using mobile devices, including
2 protections for minors, civil liability, and providing
3 penalties.

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

1 Section 1. NEW SECTION. 554H.1 Definitions.

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

4 1. "*Activate*" means the process of powering on a device and
5 associating the device with a new user account.

6 2. "*Device*" means a tablet or a smartphone manufactured on
7 or after January 1, 2025.

8 3. "*Filter*" means software installed on a device that is
9 capable of preventing the device from accessing or displaying
10 obscene material as defined by state law through internet
11 website or search engines through mobile data networks, wired
12 internet networks, and wireless internet networks.

13 4. "*Internet*" means the global information system that
14 is logically linked together by a globally unique address
15 space based on the internet protocol, or its subsequent
16 extensions, and that is able to support communications using
17 the transmission control protocol or internet protocol suite,
18 or its subsequent extensions, or other internet protocol
19 compatible protocols, and that provides, uses, or makes
20 accessible, either publicly or privately, high-level services
21 layered on communications and related infrastructure.

22 5. "*Manufacturer*" means a person or company that meets all
23 of the following:

24 a. Is engaged in the business of manufacturing a device.

25 b. Holds the patents for the device the person or company
26 manufactures.

27 c. Has a commercial designated registered agent as required
28 by Title XII.

29 6. "*Minor*" means an individual under the age of eighteen,
30 who is not emancipated, married, or a member of the armed
31 forces of the United States.

32 7. "*Obscene*" means the same as "*obscene material*" as defined
33 in section 728.1.

34 8. "*Password*" means a string of characters or other secure
35 method used to enable, deactivate, modify, or uninstall a

1 filter on a device.

2 9. "*Smartphone*" means an electronic device that combines
3 a cell phone with a hand-held computer, typically offering
4 internet access through a browser or search engine, data
5 storage, text, and electronic mail capabilities.

6 10. "*Tablet*" means an internet-ready device equipped with an
7 operating system, touchscreen display, rechargeable battery,
8 and the ability to support access to a cellular network.

9 Sec. 2. NEW SECTION. 554H.2 **Filter required.**

10 All devices activated in the state must do all of the
11 following:

12 1. Contain a filter.

13 2. Determine the age of the user during activation and
14 account setup.

15 3. Automatically activate the age verification filter for
16 minor users.

17 4. Allow a password to be established for the filter.

18 5. Notify the user of the device when the filter blocks the
19 device from accessing a website.

20 6. Give the user with a password the opportunity to
21 deactivate and reactivate the filter.

22 Sec. 3. NEW SECTION. 554H.3 **Manufacturer liability.**

23 1. A manufacturer of a device shall be subject to civil
24 liability under this chapter if all of the following are true:

25 a. The device is activated in this state.

26 b. The device does not, upon activation, enable a filter
27 that complies with the requirements described in section
28 554H.2.

29 c. A minor accesses material that is obscene on the device.

30 2. Notwithstanding subsection 1, a manufacturer that makes
31 a good faith effort to provide a device that, upon activation
32 of the device in this state, automatically enables a generally
33 accepted and commercially reasonable filter that blocks obscene
34 content on all internet browsers or search engines accessed on
35 the device shall not be civilly liable under this chapter.

1 3. This chapter shall not be construed to create a cause of
2 action against the retailer of a device.

3 Sec. 4. NEW SECTION. 554H.4 Individual liability.

4 With the exception of the minor's parent or legal guardian,
5 any person may be liable in a civil action for enabling the
6 password to remove the filter on a device in the possession of
7 the minor if the minor accesses content that is obscene.

8 Sec. 5. NEW SECTION. 554H.5 Proceedings by the attorney
9 general.

10 1. Whenever the attorney general has reason to believe
11 that a person violated or is violating the provisions of this
12 chapter, the attorney general, acting in the public interest,
13 may bring an action in the name of the state against such
14 person to do any of the following:

15 a. To enjoin any action that constitutes a violation of this
16 chapter by the issuance of a temporary restraining order or
17 preliminary or permanent injunction.

18 b. To recover from the alleged violator a civil penalty
19 not to exceed five thousand dollars per violation, and not
20 to exceed a total of fifty thousand dollars in aggregate, as
21 determined by the court.

22 c. To recover from the alleged violator the attorney
23 general's reasonable expenses, investigative costs, and
24 attorney fees.

25 d. To obtain other appropriate relief as provided for under
26 this chapter.

27 2. The attorney general, in addition to other powers
28 conferred by this chapter, may issue subpoenas to any person
29 and conduct hearings in aid of any investigation or inquiry.

30 3. The attorney general may seek the revocation of any
31 license or certificate authorizing a manufacturer to engage in
32 business in this state.

33 4. For purposes of assessing a penalty under this section,
34 a manufacturer is considered to have committed a separate
35 violation for each device manufactured on or after January 1,

1 2025, that violates the provisions of section 554H.3.

2 Sec. 6. NEW SECTION. 554H.6 Civil action by parents or
3 legal guardians.

4 1. Any parent or legal guardian of a minor that accesses
5 obscene content in violation of section 554H.2 may bring a
6 private cause of action in any court of competent jurisdiction
7 against a manufacturer who failed to comply with section
8 554H.2. A prevailing plaintiff may recover any of the
9 following:

10 a. Actual damages, or in the alternative, in the discretion
11 of the court where actual damages are difficult to ascertain
12 due to the nature of the injury, liquidated damages in the
13 amount of fifty thousand dollars for each violation.

14 b. When a violation is found to be knowing and willful,
15 punitive damages in an amount determined by the court.

16 c. Nominal damages.

17 d. Such other relief as the court deems appropriate,
18 including court costs and expenses.

19 e. Attorney fees against a violating manufacturer.

20 2. This section shall not preclude the bringing of a class
21 action lawsuit against a manufacturer where the manufacturer's
22 conduct in violation of section 554H.2 is knowing and willful.

23 3. A parent or legal guardian of a child may bring an action
24 in a court of competent jurisdiction against any person who is
25 not the parent or legal guardian of the child and who disables
26 the filter from a device in the possession of the child which
27 results in the child's exposure to obscene content.

28 Sec. 7. NEW SECTION. 728.16 Telephone filter deactivation
29 — obscene material to minors.

30 A person, except for a parent or legal guardian, that
31 knowingly deactivated or disabled a filter in violation of
32 chapter 554H shall be guilty of a serious misdemeanor and,
33 notwithstanding section 903.1, the maximum fine shall be five
34 thousand dollars. A subsequent violation of chapter 554H is
35 an aggravated misdemeanor and, notwithstanding section 903.1,

1 the maximum fine shall be fifty thousand dollars and at the
2 discretion of the courts a period of imprisonment not to exceed
3 one year.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill relates to minors using mobile devices, including
8 protections for minors and providing civil and criminal
9 penalties.

10 The bill establishes filter requirements for minors and
11 enforcement mechanisms for smartphones, tablets, and other
12 devices. The bill requires that based on the age established
13 during device activation and account setup, automatically
14 activate filters on devices for minors during activation. The
15 bill allows the filter to be deactivated by use of a password.
16 The bill provides that any adult who is not a parent or legal
17 guardian shall not deactivate the filter for a minor. The bill
18 applies only to devices manufactured on or after January 1,
19 2025.

20 The bill allows the attorney general to bring civil action
21 suits against manufactures of devices that do not comply with
22 the bill. The bill also allows private civil actions by
23 parents or guardians of a minor against manufacturers who fail
24 to comply with the bill. The bill details the civil remedies
25 available against a manufacturer that violates the provisions
26 of the bill.

27 The bill provides that a person, except for a parent or
28 guardian, who knowingly deactivated or disabled a filter in
29 violation of new Code chapter 554H is guilty of a serious
30 misdemeanor with a maximum fine of \$5,000. The bill provides
31 that a subsequent violation of new Code chapter 554H is an
32 aggravated misdemeanor punishable by confinement of no more
33 than one year and a fine of no more than \$50,000.