

SENATE BILL 585

C2

8lr2428
CF 8lr0844

By: **Senator Robinson**

Introduced and read first time: January 31, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Devices Capable of Accessing Content on the Internet – Blocking Capability**
3 **(Human Trafficking Prevention Act for Maryland)**

4 FOR the purpose of prohibiting certain businesses from doing business in the State unless
5 certain Internet–accessible devices contain a digital blocking capability that makes
6 inaccessible to users certain unlawful electronic or visual depictions or certain
7 websites that facilitate certain unlawful acts; requiring certain businesses to make
8 reasonable and ongoing efforts to ensure that a certain digital blocking capability on
9 certain devices functions properly; requiring a certain business to disable the digital
10 blocking capability on certain devices if the owner sends certain information;
11 requiring certain businesses to establish a reporting center to receive certain
12 consumer reports; requiring certain businesses to resolve certain complaints within
13 a certain period of time; authorizing certain owners to seek injunctive relief under
14 certain circumstances; prohibiting the digital blocking capability on certain devices
15 from blocking certain social networking websites under certain circumstances;
16 authorizing the Attorney General to seek injunctive relief for certain violations of
17 this Act; authorizing the Attorney General or certain owners to seek damages for
18 certain content that is reported and remains unblocked; authorizing the award of
19 attorney’s fees for certain parties under certain circumstances; making the
20 provisions of this Act severable; defining certain terms; and generally relating to
21 prohibiting certain businesses from manufacturing, distributing, or selling
22 Internet–accessible devices without a digital blocking capability.

23 BY adding to

24 Article – Business Regulation

25 Section 19–901 through 19–906 to be under the new subtitle “Subtitle 9.
26 Manufacturers, Distributors, and Sellers of Devices Capable of Accessing
27 Content on the Internet”

28 Annotated Code of Maryland

29 (2015 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Preamble

WHEREAS, The State of Maryland has a compelling interest in protecting the public health and preventing minors from being exposed to obscenity; and

WHEREAS, Studies have shown that pornography is a public hazard, leading to a broad spectrum of well-documented individual impacts and societal harm; and

WHEREAS, Easily accessible pornography on products that connect to the Internet is increasing the demand for human trafficking and prostitution; and

WHEREAS, The General Assembly has a compelling interest in imposing a narrowly tailored, commonsense filter system that combats the growing epidemic of dissemination of pornographic images and the resulting demand for human trafficking and prostitution while balancing the consumer's fundamental right to regulate the consumer's own mental health; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Regulation**SUBTITLE 9. MANUFACTURERS, DISTRIBUTORS, AND SELLERS OF DEVICES
CAPABLE OF ACCESSING CONTENT ON THE INTERNET.****19-901.**

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "INTERNET-ACCESSIBLE DEVICE" MEANS AN ELECTRONIC PRODUCT THAT CAN ACCESS CONTENT ON THE INTERNET THAT IS ACCESSIBLE TO MULTIPLE USERS.

(C) "INTERNET-CONNECTING BUSINESS" MEANS A PERSON THAT MANUFACTURES, DISTRIBUTES, OR SELLS AN INTERNET-ACCESSIBLE DEVICE.

(D) "REPORTING CENTER" MEANS A CALL CENTER OR A WEBSITE WHERE A BUSINESS RECEIVES FEEDBACK FROM CONSUMERS.

19-902.

(A) EXCEPT AS PROVIDED IN § 19-903 OF THIS SUBTITLE, AN INTERNET-CONNECTING BUSINESS MAY NOT DO BUSINESS IN THE STATE UNLESS EACH INTERNET-ACCESSIBLE DEVICE MANUFACTURED, DISTRIBUTED, OR SOLD BY

1 THE INTERNET-CONNECTING BUSINESS CONTAINS AN ACTIVE AND OPERATING
2 DIGITAL BLOCKING CAPABILITY THAT MAKES INACCESSIBLE TO THE USER:

3 (1) ANY ELECTRONIC OR VISUAL DEPICTION THAT IS UNLAWFUL,
4 INCLUDING:

5 (I) CHILD PORNOGRAPHY UNDER § 11-207 OF THE CRIMINAL
6 LAW ARTICLE; OR

7 (II) OBSCENITY UNDER § 11-202 OF THE CRIMINAL LAW
8 ARTICLE; AND

9 (2) SUBJECT TO § 19-905 OF THIS SUBTITLE, ANY WEBSITE THAT
10 FACILITATES UNLAWFUL:

11 (I) HUMAN TRAFFICKING UNDER § 11-303 OR § 11-305 OF THE
12 CRIMINAL LAW ARTICLE; OR

13 (II) PROSTITUTION UNDER § 11-304 OF THE CRIMINAL LAW
14 ARTICLE.

15 (B) AN INTERNET-CONNECTING BUSINESS SHALL MAKE REASONABLE AND
16 ONGOING EFFORTS TO ENSURE THAT THE DIGITAL BLOCKING CAPABILITY ON AN
17 INTERNET-ACCESSIBLE DEVICE FUNCTIONS PROPERLY, INCLUDING BY:

18 (1) ESTABLISHING A CONSUMER REPORTING CENTER UNDER §
19 19-904 OF THIS SUBTITLE; AND

20 (2) RESPONDING IN A REASONABLE AND TIMELY MANNER TO
21 CONSUMER REPORTS UNDER § 19-904(A)(2) OF THIS SUBTITLE THAT CONTENT HAS
22 NOT BEEN BLOCKED.

23 19-903.

24 THE DIGITAL BLOCKING CAPABILITY OF AN INTERNET-ACCESSIBLE DEVICE
25 SHALL BE DEACTIVATED BY THE INTERNET-CONNECTING BUSINESS IF THE OWNER
26 OF THE DEVICE SENDS TO THE INTERNET-CONNECTING BUSINESS:

27 (1) A WRITTEN REQUEST TO DISABLE THE DIGITAL BLOCKING
28 CAPABILITY;

29 (2) A SWORN AFFIDAVIT ATTESTING THAT THE OWNER IS AT LEAST 18
30 YEARS OF AGE; AND

1 **(3)** A SIGNED WRITTEN WARNING PROVIDED TO THE OWNER BY THE
2 INTERNET-CONNECTING BUSINESS ACKNOWLEDGING THAT THE OWNER HAS
3 NOTICE OF THE POTENTIAL DANGER OF DEACTIVATING THE DIGITAL BLOCKING
4 CAPABILITY.

5 **19-904.**

6 **(A)** AN INTERNET-CONNECTING BUSINESS SHALL ESTABLISH A REPORTING
7 CENTER WHERE OWNERS OF AN INTERNET-ACCESSIBLE DEVICE MANUFACTURED,
8 DISTRIBUTED, OR SOLD BY THE INTERNET-CONNECTING BUSINESS MAY REPORT
9 THAT THE DEVICE'S BLOCKING CAPABILITY IS:

10 **(1)** BLOCKING CONTENT THAT IS NOT REQUIRED TO BE BLOCKED
11 UNDER § 19-902(A) OF THIS SUBTITLE; AND

12 **(2)** NOT BLOCKING CONTENT THAT IS REQUIRED TO BE BLOCKED
13 UNDER § 19-902(A) OF THIS SUBTITLE.

14 **(B)** AN INTERNET-CONNECTING BUSINESS SHALL UNBLOCK CONTENT
15 REPORTED AS IMPROPERLY BLOCKED UNDER SUBSECTION (A)(1) OF THIS SECTION
16 WITHIN 5 DAYS AFTER THE DATE THE REPORT IS RECEIVED.

17 **(C)** IF AN INTERNET-CONNECTING BUSINESS FAILS TO UNBLOCK
18 IMPROPERLY BLOCKED CONTENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS
19 SECTION, AN OWNER MAY SEEK INJUNCTIVE RELIEF IN A COURT OF COMPETENT
20 JURISDICTION TO UNBLOCK THE CONTENT.

21 **19-905.**

22 THE DIGITAL BLOCKING CAPABILITY ON AN INTERNET-ACCESSIBLE DEVICE
23 MAY NOT BLOCK A SOCIAL MEDIA WEBSITE THAT IS PRIMARILY USED FOR SOCIAL
24 INTERACTION IF THE WEBSITE OPERATES A REPORTING CENTER AND REMAINS
25 REASONABLY PROACTIVE IN REMOVING CONTENT THAT:

26 **(1)** FACILITATES HUMAN TRAFFICKING UNDER § 11-303 OR § 11-305
27 OF THE CRIMINAL LAW ARTICLE;

28 **(2)** FACILITATES PROSTITUTION UNDER § 11-304 OF THE CRIMINAL
29 LAW ARTICLE; AND

30 **(3)** IS REQUIRED TO BE BLOCKED BY AN INTERNET-CONNECTING
31 BUSINESS UNDER § 19-902(A)(1) OF THIS SUBTITLE.

1 **19-906.**

2 **(A) THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF AGAINST AN**
3 **INTERNET-CONNECTING BUSINESS THAT VIOLATES ANY OF THE PROVISIONS OF**
4 **THIS SUBTITLE.**

5 **(B) IF AN INTERNET-CONNECTING BUSINESS IS UNRESPONSIVE TO A**
6 **REPORT OF UNLAWFUL MATERIAL UNDER § 19-904(A)(2) OF THIS SUBTITLE, THE**
7 **OWNER OF THE INTERNET-ACCESSIBLE DEVICE OR THE ATTORNEY GENERAL MAY**
8 **SEEK DAMAGES OF UP TO \$500 FOR EACH PIECE OF CONTENT THAT WAS PROPERLY**
9 **REPORTED AND NOT BLOCKED.**

10 **(C) ATTORNEY'S FEES MAY BE AWARDED TO THE PREVAILING PARTY IN A**
11 **CIVIL ACTION UNDER THIS SUBTITLE.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
13 the application thereof to any person or circumstance is held invalid for any reason in a
14 court of competent jurisdiction, the invalidity does not affect other provisions or any other
15 application of this Act that can be given effect without the invalid provision or application,
16 and for this purpose the provisions of this Act are declared severable.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2018.