

IN THE SENATE

SENATE BILL NO. 1163

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE PROTECTION OF MINORS; AMENDING TITLE 48, IDAHO CODE, BY THE
2 ADDITION OF A NEW CHAPTER 20, TITLE 48, IDAHO CODE, TO PROVIDE A SHORT
3 TITLE, TO PROVIDE A DECLARATION OF POLICY, TO DEFINE TERMS, TO REQUIRE
4 THE INSTALLATION OF FILTERS ON DEVICES, TO ESTABLISH PROVISIONS REGARD-
5 ING MANUFACTURER LIABILITY, TO PROVIDE FOR INDIVIDUAL LIABILITY, TO
6 PROVIDE FOR ATTORNEY GENERAL PROCEEDINGS, TO PROVIDE FOR MISDEMEANOR
7 PENALTIES, AND TO PROVIDE A CONTINGENT EFFECTIVE DATE; AND DECLARING AN
8 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended
12 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
13 ter 20, Title 48, Idaho Code, and to read as follows:

14 CHAPTER 20

15 PARENTAL RIGHTS PROTECTION OF MINORS ACT

16 48-2001. SHORT TITLE. This chapter shall be known and may be cited as
17 the "Parental Rights Protection of Minors Act."

18 48-2002. DECLARATION OF POLICY. The Idaho legislature, recognizing
19 the importance of mental health in the growth and education of minors and a
20 need to protect minors from accessing or downloading pornographic content
21 that is harmful, declares it to be the policy of the state to promote the
22 mental health of minors and adopt a comprehensive and proactive approach to
23 reducing minors' access to such harmful content.

24 48-2003. DEFINITIONS. As used in this chapter:

25 (1) "Activate" means the process of powering on a device and associat-
26 ing it with a new user account.

27 (2) "Device" means a tablet or a smartphone manufactured on or after
28 January 1 of the year following the year this chapter takes effect.

29 (3) "Filter" means software installed on a device that is capable of
30 preventing the device from accessing or displaying material that is harmful
31 to minors through internet browsers or search engines installed on the de-
32 vice.

33 (4) "Harmful to minors" means the same as that term is defined in sec-
34 tion 18-1514, Idaho Code.

35 (5) "Internet" means the global information system that is logically
36 linked together by a globally unique address space based on the internet
37 protocol (IP), or its subsequent extensions, and that is able to support
38 communications using the transmission control protocol/internet protocol
39 (TCP/IP) suite, or its subsequent extensions, or other IP-compatible pro-

1 protocols, and that provides, uses, or makes accessible, either publicly or
2 privately, high-level services layered on communications and related infra-
3 structure.

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

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

6 (b) Holds the patents for the device; and

7 (c) Has a commercial designated registered agent as required by section
8 30-21-402, Idaho Code.

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

12 (8) "Smart phone" means an electronic device that combines a cell phone
13 with a hand-held computer, typically offering internet access through a
14 browser or search engine, data storage, text, and email capabilities.

15 (9) "Tablet" means an internet-ready device that is equipped with an
16 operating system, touchscreen display, and rechargeable battery and that
17 has the ability to support access to a cellular network.

18 48-2004. FILTER REQUIRED. On and after the contingent effective date
19 provided for in section 48-2009, Idaho Code, a manufacturer shall manufac-
20 ture a device that, when activated in the state, automatically enables a fil-
21 ter that:

22 (1) When enabled, prevents a user from accessing or downloading mate-
23 rial that is harmful to minors on:

24 (a) Mobile data networks;

25 (b) Internet browsers and search engines;

26 (c) Wired internet networks; and

27 (d) Wireless internet networks;

28 (2) Notifies the user of the device when the filter blocks the device
29 from accessing a website;

30 (3) Gives a user with a passcode the opportunity to unblock a filtered
31 website; and

32 (4) Reasonably precludes a user other than a user with a passcode the
33 opportunity to deactivate, modify, or uninstall the filter.

34 48-2005. MANUFACTURER LIABILITY. (1) On and after the contingent ef-
35 fective date provided for in section 48-2009, Idaho Code, a manufacturer of a
36 device shall be subject to civil and criminal liability if:

37 (a) The device is activated in the state;

38 (b) The device does not, upon activation, enable a filter that complies
39 with the requirements described in section 48-2004, Idaho Code; and

40 (c) A minor accesses material that is harmful to minors on the device.

41 (2) Notwithstanding the provisions of subsection (1) of this section,
42 this section does not apply to a manufacturer that makes a good faith effort
43 to provide a device that, upon activation of the device in this state, au-
44 tomatically enables a generally accepted and commercially reasonable method
45 of filtration in accordance with this chapter and industry standards.

46 48-2006. INDIVIDUAL LIABILITY. On and after the contingent effective
47 date as provided in section 48-2009, Idaho Code, with the exception of a mi-

1 nor's parent or legal guardian, any person may be liable in a civil action for
2 knowingly enabling a passcode to remove a filter on a device in the posses-
3 sion of a minor if the minor accesses material that is harmful to minors on
4 the device.

5 48-2007. PROCEEDINGS BY THE ATTORNEY GENERAL. (1) Whenever the attor-
6 ney general has reason to believe that a manufacturer violated or is violat-
7 ing the provisions of this chapter, the attorney general, acting in the pub-
8 lic interest, may bring an action in the name of the state against the manu-
9 facturer:

10 (a) To enjoin any action that constitutes a violation of this chapter by
11 issuance of a temporary restraining order or preliminary or permanent
12 injunction;

13 (b) To recover from the alleged violator a civil penalty not to exceed
14 one thousand dollars (\$1,000) per violation, and not to exceed a total
15 of twenty thousand dollars (\$20,000) in aggregate, as determined by the
16 court;

17 (c) To recover from the alleged violator the attorney general's reason-
18 able expenses, investigative costs, and attorney's fees; and

19 (d) To obtain other appropriate relief as provided for under this chap-
20 ter.

21 (2) The attorney general, in addition to other powers conferred upon
22 him by this chapter, may issue subpoenas to any person and conduct hearings
23 in aid of any investigation or inquiry.

24 (3) The attorney general may seek the revocation of any license or cer-
25 tificate authorizing a manufacturer to engage in business in this state.

26 (4) For purposes of assessing a penalty under this section, a manufac-
27 turer is considered to have committed a separate violation for each device
28 manufactured on or after January 1 of the year following the year this chap-
29 ter takes effect that violates the provisions of section 48-2005, Idaho
30 Code.

31 (5) The provisions of this section shall apply on and after the contin-
32 gent effective date provided for in section 48-2009, Idaho Code.

33 48-2008. MISDEMEANOR PENALTIES. (1) A person may be charged with a
34 misdemeanor, with the exception of a parent or legal guardian, if such person
35 knowingly and willfully enables the passcode to remove or deactivate the
36 filter on a device in the possession of a minor.

37 (2) Those found to be in violation of the provisions of this section
38 shall pay a fine not to exceed one thousand dollars (\$1,000) for the first
39 offense and not to exceed twenty thousand dollars (\$20,000) for a second or
40 subsequent offense.

41 (3) A person who is found guilty under the provisions of this section
42 two (2) or more times may be imprisoned for a period of time not to exceed one
43 (1) year.

44 (4) The provisions of this section shall apply on and after the contin-
45 gent effective date provided for in section 48-2009, Idaho Code.

46 48-2009. CONTINGENT EFFECTIVE DATE. The provisions of sections
47 48-2004 through 48-2008, Idaho Code, shall become effective on the first

1 day of January following the date when at least five (5) states, other than
2 Idaho, pass legislation that is substantially the same as section 48-2004,
3 Idaho Code, as certified by the secretary of state, and the enactments by
4 such other states have taken effect.

5 SECTION 2. An emergency existing therefor, which emergency is hereby
6 declared to exist, this act shall be in full force and effect on and after
7 January 1, 2024.