

HB167 INTRODUCED



1 HB167

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12 RFD: Judiciary

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SYNOPSIS:

This bill would require manufacturers of certain Internet-enabled devices, including smart phones and tablets, to require that devices manufactured on or after January 1, 2025, contain a filter that is activated during the activation of the device if the user is a minor, and only allow a user with a password to deactivate or reactivate the filter.

This bill would provide that a manufacturer of a device in violation of this act is subject to civil liability and provide for penalties.

A BILL
TO BE ENTITLED
AN ACT

Relating to consumer protection; to provide certain requirements for the use of a filter on certain Internet-enabled devices in this state; to provide certain requirements for the filter; and to authorize a civil action for a violation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the following terms



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29 have the following meanings:

30 (1) ACTIVATE. The process of powering on a device and
31 associating it with a new or existing user account.

32 (2) DEVICE. A tablet or a smartphone manufactured on or
33 after January 1, 2025.

34 (3) FILTER. Software used on a device that is capable
35 of preventing the device from accessing or displaying
36 obscenity through Internet browsers or search engines via
37 mobile data networks, wired Internet networks, and wireless
38 Internet networks.

39 (4) INTERNET. The global information system that is
40 logically linked together by a globally unique address space
41 based on the Internet protocol (IP), or its subsequent
42 extensions; that is able to support communications using the
43 transmission control protocol/Internet protocol (TCP/IP) suite
44 or its subsequent extensions, or other IP-compatible
45 protocols; and that provides, uses, or makes accessible,
46 either publicly or privately, high-level services layered on
47 communications and related infrastructure.

48 (5) MANUFACTURER. A person to which all of the
49 following apply:

50 a. Is engaged in the business of manufacturing a
51 device.

52 b. Holds the patents for the device it manufactures.

53 c. Has a commercial designated registered agent in this
54 state.

55 (6) MINOR. An individual under 18 years of age who is
56 not emancipated, married, or a member of the United States



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57 Armed Forces.

58 (7) OBSCENITY. A visual depiction of matter that is
59 obscene, as those terms are defined under Section 13A-12-190,
60 Code of Alabama 1975.

61 (8) PASSWORD. A string of characters or other secure
62 method used to enable, deactivate, modify, or uninstall a
63 filter on a device.

64 (9) SMARTPHONE. An electronic device that combines a
65 cell phone with a hand-held computer, typically offering
66 Internet access through a browser or search engine and that
67 typically has data storage, text, and email capabilities.

68 (10) TABLET. An Internet-ready device equipped with an
69 operating system, touchscreen display, rechargeable battery,
70 and the ability to support access to a cellular network.

71 Section 2. Beginning on January 1, 2026, all devices
72 activated in the state must meet all of the following
73 requirements:

74 (1) Contain a filter.

75 (2) Determine the age of the user during activation and
76 account set-up.

77 (3) Set the filter to "on" for minor users.

78 (4) Allow a password to be established for the filter.

79 (5) Notify the user of the device when the filter
80 blocks the device from accessing a website.

81 (6) Give the user with a password the opportunity to
82 deactivate and reactivate the filter.

83 Section 3. (a) Beginning January 1, 2026, a
84 manufacturer of a device shall be subject to civil and



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85 criminal liability if all of the following occur:

86 (1) The device is activated in the state.

87 (2) The device does not, upon activation, enable a
88 filter that complies with the requirements described in
89 Section 2.

90 (3) A minor accesses material that is obscene on the
91 device.

92 (b) Notwithstanding subsection (a), this section does
93 not apply to a manufacturer that makes a good faith effort to
94 provide a device that, upon activation of the device in the
95 state, automatically enables a generally accepted and
96 commercially reasonable filter that blocks obscene content on
97 all Internet browsers or search engines accessed on the device
98 in accordance with this section.

99 (c) Nothing in this act shall be construed to create a
100 cause of action against the retailer of a device.

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

106 Section 5. (a) Whenever the Attorney General has reason
107 to believe that a person violated or is violating this act,
108 the Attorney General, acting in the public interest, may bring
109 an action in the name of the state against the person as
110 follows:

111 (1) To enjoin any action that constitutes a violation
112 of this act by the issuance of a temporary restraining order



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113 or preliminary or permanent injunction.

114 (2) To recover from the alleged violator a civil
115 penalty not to exceed five thousand dollars (\$5,000) per
116 violation, and not to exceed a total of fifty thousand dollars
117 (\$50,000) in aggregate, as determined by the court.

118 (3) To recover from the alleged violator the Attorney
119 General's reasonable expenses, investigative costs, and
120 attorney fees.

121 (4) To obtain other appropriate relief as provided for
122 under this act.

123 (b) The Attorney General, in addition to other powers
124 conferred by this act, may issue subpoenas to any person and
125 conduct hearings in aid of any investigation or inquiry.

126 (c) The Attorney General may seek the revocation of any
127 license or certificate authorizing a manufacturer to engage in
128 business in this state.

129 (d) For purposes of assessing a penalty under this
130 section, a manufacturer is considered to have committed a
131 separate violation for each device manufactured on or after
132 January 1, 2025, that violates Section 3.

133 Section 6. (a) Any parent or legal guardian of a minor
134 who accesses obscene content in violation of Section 2 may
135 bring a private cause of action in any court of competent
136 jurisdiction against a manufacturer who failed to comply with
137 Section 2.

138 (b) A prevailing plaintiff may recover all of the
139 following:

140 (1) Actual damages or, in the discretion of the court



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141 where actual damages are difficult to ascertain due to the
142 nature of the injury, liquidated damages in the amount of
143 fifty thousand dollars (\$50,000) for each violation.

144 (2) When a violation is found to be knowing and
145 willful, punitive damages in an amount determined by the
146 court.

147 (3) Nominal damages.

148 (4) Attorney fees.

149 (5) Any other relief as the court deems appropriate,
150 including court costs and expenses.

151 (c) Nothing in this section precludes the bringing of a
152 class action lawsuit against a manufacturer where the
153 manufacturer's conduct in violation of Section 2 is knowing
154 and willful.

155 (d) Any parent or legal guardian of a child may bring
156 an action in a court of competent jurisdiction against any
157 individual who is not the parent or legal guardian of the
158 child and who disables the filter from a device in the
159 possession of the child which results in the child's exposure
160 to obscene content.

161 Section 7. This act shall become effective on January
162 1, 2025.