SENATE BILL 585

C2

By: Senator Robinson
Introduced and read first time: January 31, 2018
Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

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

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

BY adding to

Article – Business Regulation
Section 19–901 through 19–906 to be under the new subtitle “Subtitle 9.
Manufacturers, Distributors, and Sellers of Devices Capable of Accessing
Content on the Internet”
Annotated Code of Maryland
(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
THE INTERNET–CONNECTING BUSINESS CONTAINS AN ACTIVE AND OPERATING DIGITAL BLOCKING CAPABILITY THAT MAKES INACCESSIBLE TO THE USER:

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

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

   (II) OBSCENITY UNDER § 11–202 OF THE CRIMINAL LAW ARTICLE; AND

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

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

   (II) PROSTITUTION UNDER § 11–304 OF THE CRIMINAL LAW ARTICLE.

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

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

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

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

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

   (2) A SWORN AFFIDAVIT ATTESTING THAT THE OWNER IS AT LEAST 18 YEARS OF AGE; AND
SENATE BILL 585

4

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

19–904.

(A) AN INTERNET–CONNECTING BUSINESS SHALL ESTABLISH A REPORTING CENTER WHERE OWNERS OF AN INTERNET–ACCESSIBLE DEVICE MANUFACTURED, DISTRIBUTED, OR SOLD BY THE INTERNET–CONNECTING BUSINESS MAY REPORT THAT THE DEVICE’S BLOCKING CAPABILITY IS:

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

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

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

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

19–905.

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

(1) FACILITATES HUMAN TRAFFICKING UNDER § 11–303 OR § 11–305 OF THE CRIMINAL LAW ARTICLE;

(2) FACILITATES PROSTITUTION UNDER § 11–304 OF THE CRIMINAL LAW ARTICLE; AND

(3) IS REQUIRED TO BE BLOCKED BY AN INTERNET–CONNECTING BUSINESS UNDER § 19–902(A)(1) OF THIS SUBTITLE.
19–906.

(A) The Attorney General may seek injunctive relief against an internet–connecting business that violates any of the provisions of this subtitle.

(B) If an internet–connecting business is unresponsive to a report of unlawful material under § 19–904(A)(2) of this subtitle, the owner of the internet–accessible device or the Attorney General may seek damages of up to $500 for each piece of content that was properly reported and not blocked.

(C) Attorney’s fees may be awarded to the prevailing party in a civil action under this subtitle.

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

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