

HOUSE BILL 1082

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By: **Delegates McComas, Schmidt, and Wivell**

Introduced and read first time: February 10, 2023

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Protection of Minors From Unfiltered Tablets or Smart**
3 **Phones**

4 FOR the purpose of requiring a manufacturer of a tablet or smart phone manufactured on
5 or after a certain date and sold or offered for sale in the State to manufacture the
6 tablet or smart phone to automatically enable a certain filter, when activated in the
7 State, that prevents the user from accessing or downloading material on certain
8 networks and applications that is harmful to minors; providing that a violation of
9 this Act is an unfair, abusive, or deceptive trade practice and is subject to certain
10 enforcement provisions; authorizing an individual alleging a violation of this Act to
11 bring a civil action against the offending manufacturer; and generally relating to the
12 manufacture of tablets and smart phones and the protection of minors.

13 BY adding to

14 Article – Commercial Law

15 Section 14–4501 through 14–4503 to be under the new subtitle “Subtitle 45.
16 Protection of Minors From Unfiltered Devices”

17 Annotated Code of Maryland

18 (2013 Replacement Volume and 2022 Supplement)

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

21 **Article – Commercial Law**

22 **SUBTITLE 45. PROTECTION OF MINORS FROM UNFILTERED DEVICES.**

23 **14–4501.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (B) "ACTIVATE" MEANS THE PROCESS OF POWERING ON A DEVICE AND
4 ASSOCIATING IT WITH A NEW USER ACCOUNT.

5 (C) "DEVICE" MEANS A TABLET OR SMART PHONE.

6 (D) "FILTER" MEANS SOFTWARE INSTALLED ON A DEVICE THAT IS CAPABLE
7 OF PREVENTING THE DEVICE FROM ACCESSING OR DISPLAYING MATERIAL THAT IS
8 HARMFUL TO MINORS THROUGH THE INTERNET OR ANY APPLICATIONS OWNED AND
9 CONTROLLED BY THE MANUFACTURER AND INSTALLED ON THE DEVICE.

10 (E) "HARMFUL TO MINORS" MEANS THAT QUALITY OF ANY DESCRIPTION OR
11 REPRESENTATION OF NUDITY, SEXUAL CONDUCT, SEXUAL EXCITEMENT, OR
12 SADOMASOCHISTIC ABUSE WHEN IT:

13 (1) TAKEN AS A WHOLE, APPEALS TO THE PRURIENT INTEREST IN SEX
14 OF MINORS;

15 (2) IS PATENTLY OFFENSIVE TO PREVAILING STANDARDS IN THE
16 ADULT COMMUNITY AS A WHOLE WITH RESPECT TO WHAT IS SUITABLE MATERIAL
17 FOR MINORS; AND

18 (3) TAKEN AS A WHOLE, DOES NOT HAVE SERIOUS LITERARY,
19 ARTISTIC, POLITICAL, OR SCIENTIFIC VALUE FOR MINORS.

20 (F) "MANUFACTURER" MEANS A PERSON THAT IS ENGAGED IN THE
21 BUSINESS OF MANUFACTURING A DEVICE.

22 (G) "SMART PHONE" MEANS AN ELECTRONIC DEVICE THAT COMBINES A
23 CELL PHONE WITH A HANDHELD COMPUTER, TYPICALLY OFFERING INTERNET
24 ACCESS, DATA STORAGE, AND TEXT AND E-MAIL CAPABILITIES.

25 (H) "TABLET" MEANS A MOBILE DEVICE THAT:

26 (1) IS EQUIPPED WITH A MOBILE OPERATING SYSTEM, TOUCHSCREEN
27 DISPLAY, AND RECHARGEABLE BATTERY; AND

28 (2) HAS THE ABILITY TO SUPPORT ACCESS TO A CELLULAR NETWORK.

29 14-4502.

1 **BEGINNING JANUARY 1, 2024, A MANUFACTURER MAY NOT MANUFACTURE A**
2 **DEVICE FOR SALE AND USE IN THE STATE UNLESS, WHEN ACTIVATED, THE DEVICE**
3 **AUTOMATICALLY ENABLES A FILTER THAT:**

4 **(1) PREVENTS THE USER FROM ACCESSING OR DOWNLOADING**
5 **MATERIAL THAT IS HARMFUL TO MINORS ON:**

6 **(I) MOBILE DATA NETWORKS;**

7 **(II) APPLICATIONS OWNED AND CONTROLLED BY THE**
8 **MANUFACTURER;**

9 **(III) WIRED INTERNET NETWORKS; AND**

10 **(IV) WIRELESS INTERNET NETWORKS;**

11 **(2) NOTIFIES THE USER OF THE DEVICE WHEN THE FILTER BLOCKS**
12 **THE DEVICE FROM DOWNLOADING AN APPLICATION OR ACCESSING A WEBSITE;**

13 **(3) GIVES A USER WITH A PASSCODE THE OPPORTUNITY TO UNBLOCK**
14 **A FILTERED APPLICATION OR WEBSITE; AND**

15 **(4) REASONABLY PRECLUDES A USER OTHER THAN A USER WITH A**
16 **PASSCODE THE OPPORTUNITY TO DEACTIVATE, MODIFY, OR UNINSTALL THE**
17 **FILTER.**

18 **14-4503.**

19 **(A) A VIOLATION OF THIS SUBTITLE IS:**

20 **(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN**
21 **THE MEANING OF TITLE 13 OF THIS ARTICLE; AND**

22 **(2) SUBJECT TO THE ENFORCEMENT PROVISIONS CONTAINED IN**
23 **TITLE 13, EXCEPT §§ 13-410 AND 13-411, OF THIS ARTICLE.**

24 **(B) (1) A MANUFACTURER WHO VIOLATES THIS SUBTITLE IS LIABLE FOR**
25 **CIVIL PENALTIES NOT TO EXCEED \$10 PER VIOLATION.**

26 **(2) FOR PURPOSES OF ASSESSING A PENALTY UNDER PARAGRAPH (1)**
27 **OF THIS SUBSECTION, A MANUFACTURER IS CONSIDERED TO HAVE COMMITTED A**
28 **SEPARATE VIOLATION FOR EACH DEVICE MANUFACTURED ON OR AFTER JANUARY**
29 **1, 2024, AND ACTIVATED IN THE STATE ON WHICH:**

1 **(I) A FILTER IS NOT AUTOMATICALLY ENABLED; AND**

2 **(II) A MINOR ENCOUNTERS MATERIAL HARMFUL TO MINORS.**

3 **(3) THE TOTAL CIVIL PENALTY ASSESSED AGAINST A**
4 **MANUFACTURER UNDER THIS SUBSECTION MAY NOT EXCEED \$500 FOR EACH MINOR**
5 **WHO IS THE SUBJECT OF A VIOLATION UNDER THIS SUBTITLE.**

6 **(C) (1) AN INDIVIDUAL ALLEGING A VIOLATION OF THIS SUBTITLE MAY**
7 **BRING A CIVIL ACTION AGAINST THE MANUFACTURER.**

8 **(2) AN INDIVIDUAL WHO PREVAILS IN A CIVIL ACTION UNDER THIS**
9 **SUBSECTION MAY RECOVER:**

10 **(I) \$500 OR ACTUAL DAMAGES, WHICHEVER IS GREATER;**

11 **(II) REASONABLE ATTORNEY'S FEES AND COSTS; AND**

12 **(III) OTHER RELIEF AS THE COURT MAY DETERMINE**
13 **APPROPRIATE.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2023.