

IN THE SENATE

SENATE BILL NO. 1253

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO CHILDREN'S DEVICE PROTECTION; AMENDING TITLE 48, IDAHO CODE,  
2 BY THE ADDITION OF A NEW CHAPTER 21, TITLE 48, IDAHO CODE, TO PROVIDE  
3 A SHORT TITLE, TO PROVIDE A DECLARATION OF POLICY, TO DEFINE TERMS, TO  
4 REQUIRE INTERNET FILTERING ON CERTAIN DEVICES, TO ESTABLISH PROVISIONS  
5 REGARDING MANUFACTURER LIABILITY, AND TO PROVIDE FOR ATTORNEY GENERAL  
6 PROCEEDINGS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE  
7 DATE.  
8

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

10 SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended  
11 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
12 ter 21, Title 48, Idaho Code, and to read as follows:

13 CHAPTER 21  
14 CHILDREN'S DEVICE PROTECTION ACT

15 48-2101. SHORT TITLE. This chapter shall be known and may be cited as  
16 the "Children's Device Protection Act."

17 48-2102. DECLARATION OF POLICY. The Idaho legislature, recognizing  
18 the importance of mental health in the growth and education of minors and a  
19 need to protect minors from accessing or downloading pornographic content  
20 that is harmful, declares it to be the policy of the state to promote the  
21 mental health of minors and adopt a comprehensive and proactive approach to  
22 reducing minors' access to such harmful content.

23 48-2103. DEFINITIONS. As used in this chapter:

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

26 (2) "Device" means a tablet or a smartphone manufactured on or after  
27 January 1, 2025.

28 (3) "Filter" means software installed on a device that is capable of  
29 preventing the device from accessing or displaying obscene material as de-  
30 fined by state law through internet browsers or search engines via mobile  
31 data networks, wired internet networks, and wireless internet networks.

32 (4) "Internet" means the global information system that is logically  
33 linked together by a globally unique address space based on the internet  
34 protocol (IP), or its subsequent extensions, and that is able to support  
35 communications using the transmission control protocol/internet proto-  
36 col(TCP/IP) suite, or its subsequent extensions, or other IP-compatible  
37 protocols, and that provides, uses, or makes accessible, either publicly  
38 or privately, high-level services layered on communications and related  
39 infrastructure.

- 1 (5) "Manufacturer" means a person or company that:  
2 (a) Is engaged in the business of manufacturing a device;  
3 (b) Holds the patents for the device; and  
4 (c) Has a commercial designated registered agent as required by section  
5 30-21-402, Idaho Code.  
6 (6) "Minor" means an individual under the age of eighteen (18) years who  
7 is not emancipated, married, or a member of the armed forces of the United  
8 States.  
9 (7) "Obscene material" means the same as that term is defined in section  
10 18-4101, Idaho Code.  
11 (8) "Password" means a string of characters or numbers or other secure  
12 method used to enable, deactivate, modify, or uninstall a filter on a device.  
13 (9) "Smartphone" means an electronic device that combines a cell phone  
14 with a handheld computer, typically offering internet access through a  
15 browser or search engine, data storage, text, and email capabilities.  
16 (10) "Tablet" means an internet-ready device equipped with an operating  
17 system, touchscreen display, rechargeable battery, and the ability to sup-  
18 port access to a cellular network.

- 19 48-2104. FILTER REQUIRED. Beginning on January 1, 2025, all devices  
20 activated in the state must:  
21 (1) Contain a filter;  
22 (2) Determine the age of the user during activation and account setup;  
23 (3) Enable the filter for minor users;  
24 (4) Allow a password to be established for the filter;  
25 (5) Notify the user of the device when the filter blocks the device from  
26 accessing a website; and  
27 (6) Provide the user with a password the opportunity to deactivate and  
28 reactivate the filter.

- 29 48-2105. MANUFACTURER LIABILITY. (1) Beginning January 1, 2025, a  
30 manufacturer of a device shall be subject to civil and criminal liability if:  
31 (a) The device is activated in the state;  
32 (b) The device does not, upon activation, enable a filter that complies  
33 with the requirements described in section 48-2104, Idaho Code; and  
34 (c) A minor accesses obscene material on the device.  
35 (2) Notwithstanding the provisions of subsection (1) of this section,  
36 this section does not apply to a manufacturer that makes a good faith effort  
37 to provide a device that, upon activation of the device in the state, auto-  
38 matically enables a generally accepted and commercially reasonable filter  
39 that blocks obscene material on all internet browsers or search engines ac-  
40 cessed on the device in accordance with the provisions of this chapter.  
41 (3) Nothing in this chapter shall be construed to create a cause of ac-  
42 tion against the retailer of a device.

- 43 48-2106. PROCEEDINGS BY THE ATTORNEY GENERAL. (1) Whenever the attor-  
44 ney general has reason to believe that a person violated or is violating the  
45 provisions of this chapter, the attorney general, acting in the public in-  
46 terest, may bring an action in the name of the state against such person:

1 (a) To enjoin any action that constitutes a violation of this chapter by  
2 the issuance of a temporary restraining order or preliminary or perma-  
3 nent injunction;

4 (b) To recover from the alleged violator a civil penalty not to exceed  
5 five thousand dollars (\$5,000) per violation, and not to exceed a total  
6 of fifty thousand dollars (\$50,000) in aggregate in any specific case,  
7 as determined by the court;

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

10 (d) To obtain other appropriate relief as provided for pursuant to this  
11 chapter.

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

14 (3) For purposes of assessing a penalty pursuant to this section, a man-  
15 ufacturer is considered to have committed a separate violation for each de-  
16 vice manufactured on or after January 1, 2025, that violates the provisions  
17 of section 48-2104, Idaho Code.

18 SECTION 2. An emergency existing therefor, which emergency is hereby  
19 declared to exist, this act shall be in full force and effect on and after  
20 July 1, 2024.