

HB 298 -- Redline

Introduced to Engrossed -- Relating to consumer protection; to require certain manufacturers of Internet-enabled devices to activate existing filters to restrict access to certain material; to provide for a cause of action; to provide civil penalties.

Deletions ~~struck~~ · Insertions underlined

HB298 ~~INTRODUCED~~ENGROSSED ~~SHXZ77-1~~SHXZ77-2 By Representatives Sells, Mooney, Whorton, Paschal, Fincher, 3 Harrison, Gidley, Butler, Lamb, Bedsole, Stadthagen, Kirkland, Hammett, Bolton, Hurst, Givens, Fidler, Underwood, Lee, Cole, Whitt, Rigsby, Marques, Smith, Oliver, Pettus, Standridge, McClammy, Hollis, Brown, Carns, Reynolds, Sorrells, Estes, Moore (P), Shaver, Rehm, Ingram, Hulsey, Ellis, Lomax, Woods, Lipscomb, Crawford, Shedd, Robertson, Wood (D), Baker, Stubbs, Easterbrook, Stringer, Paramore, Collins, DuBose, Hassell, Travis, Drummond, Plump, Lawrence RFD:

12-Apr-23 2023 Regular Session Page 0 ~~SHXZ77-1~~HB298 04/05/2022 Engrossed CMH2 (L)4 bmA 2022-5116 BILL 2 TO 4 BE SYNOPSISENTITLED AN ACT 9 Relating to consumer protection;

~~This bill would require manufacturers of certain Internet-enabled devices to automatically activate existing filters on the devices to prevent users from accessing material harmful to minors, including pornography, without a device passcode, and would provide civil penalties for a violation.~~

~~A BILL TO BE ENTITLED AN ACT Relating to consumer protection;~~

A tablet or a smart phone manufactured on or after the operative date of this act as provided in Section ~~Page 1 HB298 INTRODUCED~~ 7.

Any description or representation, in whatsoever form, of nudity, sexual conduct, Page 1 HB298 Engrossed sexual excitement, or sadomasochistic abuse when it:

Has a commercial designated registered agent as ~~Page 2 HB298 INTRODUCED~~ provided under Section 10A-1-5.31, Code of Alabama 1975.

Page 2 HB298 Engrossed (9) SMART PHONE.

(3) Gives a user with a password the opportunity to ~~Page 3 HB298 INTRODUCED~~ unblock a filtered website.

Page 3 HB298 Engrossed (2) The device does not, upon activation in this state, enable a filter that complies with the requirements described in Section 3.

~~95-~~(3) The minor accesses material that is harmful to minors on the device.

(c) Notwithstanding subsection (a), this section does not apply to a manufacturer that makes a good faith effort to provide a device that, upon activation of the device in this 95 state, automatically enables a generally accepted and commercially reasonable method of filtration in accordance with this act and industry standards.

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

~~(a) If a court finds that a manufacturer is liable under Section 4, the court may award the plaintiff actual damages.~~

~~(b) A class action may be brought under this act in accordance with Rule 23 of the Alabama Rules of Civil Procedure.~~

(a) When the Attorney General has reason to believe that a person has violated or is violating this act, ~~Page 4 HB298 INTRODUCED~~ the Attorney General, acting in the public interest, may bring an action in the name of the state against the person to do any of the following:

(2) To recover from the alleged violator a civil Page 4 HB298 Engrossed penalty not to exceed five thousand dollars (\$5,000) per violation and not to exceed a total of fifty thousand dollars (\$50,000) in aggregate, as determined by the court.

(a) Any parent or legal guardian of a minor who accesses pornographic content that is harmful to minors, ~~Page 5 HB298 INTRODUCED~~ which content is accessible as a result of a violation of this act, may bring a private cause of action in any court of competent jurisdiction against a manufacturer who manufactured a device in violation of this act.

or, in the discretion of the court, Page 5 HB298 Engrossed when actual damages are difficult to ascertain due to the nature of the injury, liquidated damages in the amount of fifty thousand dollars (\$50,000) for each violation.

(c) Nothing in this act shall ~~preclude~~authorize the bringing of a class action ~~lawsuit~~lawsuit. ~~against a manufacturer where its conduct in violation of Section 3 is knowing and willful.~~

Page 6 HB298 Engrossed House of Representatives Read for the first time and referred12-Apr-23 to the House of Representatives committee on Commerce and Small Business Read for the second time and placed27-Apr-23 on the calendar:

amendments Read for the third time and passed16-May-23 as amended Yeas 70 Nays 8 Abstains 24 John Treadwell Clerk Page 7

