HOUSE BILL NO. HB0127

Online obscenity prevention.

Sponsored by: Representative(s) Lone, Edwards and Jennings

A BILL

for

AN ACT relating to public health and safety; requiring internet enabled devices manufactured, sold or distributed in Wyoming to contain software that blocks obscene internet websites; providing exceptions; providing for judicial relief; requiring the attorney general to develop a written document as specified; amending the crime of promoting obscenity as specified; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-31-101 and 35-31-102 are created to read:

CHAPTER 31

ONLINE OBSCENITY PREVENTION

(a) As used in this chapter:

(i) "Blocking software" means software that prevents an internet enabled device from accessing obscene internet websites;

(ii) "Internet enabled device" means a device that allows a user to access the internet and view or download content from the internet;

(iii) "Obscene internet websites" means any internet website that:

(A) Contains obscene material as defined in W.S. 6-4-301(a)(iii);

(B) Contains or facilitates child pornography as defined in W.S. 6-4-303(a)(ii);

(C) Facilitates prostitution prohibited under W.S. 6-4-101;
(D) Facilitates human trafficking prohibited under W.S. 6-2-702 or 6-2-703;

(E) Facilitates sexual servitude prohibited under W.S. 6-2-705 or 6-2-706.

35-31-102. Blocking software; requirements; deactivation; exceptions.

(a) A person shall not manufacture, sell or distribute an internet enabled device in this state unless the device contains active blocking software.

(b) Any person who manufactures, sells or distributes an internet enabled device in this state with active blocking software shall make reasonable and ongoing efforts to ensure that:

(i) The blocking software is updated and continues to function effectively;
(ii) The source code and any other information that could allow a person to bypass the blocking software is kept confidential;

(iii) The blocking software prohibits access to obscene internet websites.

(c) Any person who manufactures, sells or distributes an internet enabled device shall not disable the blocking software unless all of the following apply:

(i) The consumer requests in writing that the blocking software be disabled;

(ii) The manufacturer, seller or distributor verifies that the consumer is at least eighteen (18) years of age or the consumer is an emancipated minor who has become emancipated as provided in W.S. 14-1-201 through 14-1-206;

(iii) The consumer receives and acknowledges in writing the receipt of a written document, which shall be developed by the attorney general, describing the potential
dangers of the content that may be accessible as a result of deactivating the blocking software.

(d) Any person who manufactures, sells or distributes an internet enabled device in this state with active blocking software shall provide for a reporting mechanism, such as a website or call center, to allow a consumer to report unblocked obscene internet websites or to report blocked websites that are not obscene internet websites. If the person is unresponsive to a report, the attorney general or a consumer may petition a court of competent jurisdiction for an order to require the manufacturer, seller or distributor to:

(i) Make reasonable efforts to ensure the blocking software prohibits access to the identified obscene internet websites; or

(ii) Make reasonable efforts to ensure the blocking software allows access to the websites that are not obscene internet websites.
(e) This chapter shall not apply to any of the following:

(i) An occasional sale of an internet enabled device by a person that is not regularly engaged in the trade or business of selling internet enabled devices;

(ii) The sale, manufacture or distribution of an internet enabled device manufactured before July 1, 2019.

(f) Nothing in this chapter shall be construed to prohibit any person who manufactures, sells or distributes an internet enabled device containing active blocking software from charging a reasonable fee to defray the associated costs of the blocking software.

Section 2. W.S. 6-4-302(a)(ii), (iii) and by creating a new paragraph (iv) is amended to read:

6-4-302. Promoting obscenity; penalties.

(a) A person commits the crime of promoting obscenity if he:
(ii) Possesses obscene material with the intent of disseminating it; or

(iii) Knowingly disseminates obscene material; or

(iv) Manufactures, sells or distributes an internet enabled device in this state that does not contain blocking software in violation of W.S. 35-31-102.

Section 3. The attorney general shall develop a written document describing the potential dangers of the content that may be accessible on an internet enabled device as a result of deactivating the blocking software on or before July 1, 2019.

Section 4.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2019.
(b) Section 3 of this act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)