

HOUSE BILL NO. 1185

Introduced by

Representatives Klemin, Paur, Roers Jones

Senators D. Larson, Myrdal, Nelson

1 A BILL for an Act to create and enact chapter 12.1-27.3 of the North Dakota Century Code,
2 relating to filtering restricted content on products with internet capabilities and websites; to
3 amend and reenact section 54-23.4-05 of the North Dakota Century Code, relating to the uses
4 of the crime victims restitution fund; to provide a penalty; and to provide a continuing
5 appropriation.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** Chapter 12.1-27.3 of the North Dakota Century Code is created and enacted
8 as follows:

9 **12.1-27.3-01. Digital blocking capability requirement.**

- 10 1. A person in this state which manufactures, distributes, or sells a product that makes
11 any content on the internet accessible may not sell the product unless the product
12 contains an active and operating digital blocking capability that renders obscene
13 material or obscene performances, as defined by section 12.1-27.1-01 inaccessible.
- 14 2. A person that manufactures, distributes, or sells a product that makes any content on
15 the internet accessible may not sell or otherwise distribute the product unless the
16 product contains an active and operating digital blocking capability that renders
17 obscene material or obscene performances inaccessible. The person shall make
18 reasonable and ongoing efforts to ensure the proper functioning of the digital content
19 blocking capability to make obscene material and obscene performances inaccessible
20 and to prevent dissemination of the material or performance.
- 21 3. A person that manufactures, distributes, or sells a product that makes accessible any
22 content on the internet shall ensure all obscene sexual performances as defined in
23 section 12.1-27.2-01 is inaccessible.

1 4. A person that manufactures, distributes, or sells a product that makes any content on
2 the internet accessible shall ensure an intimate image as defined in section
3 12.1-17-07.2 is inaccessible.

4 **12.1-27.3-02. Duty to hide prostitution hubs.**

5 1. A person that manufactures, distributes, or sells a product that makes any content on
6 the internet accessible shall ensure any hub promoting or facilitating prostitution is
7 inaccessible.

8 2. The attorney general may seek injunctive relief against a person that manufactures,
9 distributes, or sells a product that makes accessible any content on the internet used
10 to promote or facilitate prostitution as provided under chapter 12.1-29.

11 **12.1-27.3-03. Duty to hide websites facilitating human trafficking.**

12 1. A person that manufactures, distributes, or sells a product that makes any content on
13 the internet accessible shall render websites known to be facilitating the trafficking of
14 individuals inaccessible.

15 2. The attorney general may seek injunctive relief against a person that manufactures,
16 distributes, or sells a product that makes any content on the internet accessible in
17 violation of this section.

18 **12.1-27.3-04. Duty to warn and to deactivate filter.**

19 1. A person that manufactures, distributes, or sells a product that makes any content on
20 the internet accessible may not sell or otherwise distribute the product unless the
21 product contains an active and operating digital content blocking capability that makes
22 content restricted under this chapter inaccessible to the product.

23 2. A person that manufactures, distributes, or sells a product that makes any content on
24 the internet accessible may not share the methods, source code, or other operating
25 instructions of the digital blocking capability except as provided in subsection 3.

26 3. A manufacturer or wholesaler shall deactivate the digital content blocking capability if
27 the consumer:

28 a. Specifically, in writing, requests the capability be disabled;

29 b. Verifies in a face-to-face encounter, either in person or through other means, that
30 verify the consumer is eighteen years of age or older;

- 1 c. Has acknowledged receiving a written warning regarding the potential danger of
2 deactivating the digital content blocking capability; and
3 d. Pays a twenty dollar one-time license fee as provided under section
4 12.1-27.3-08.

5 **12.1-27.3-05. Criminal liability for selling non-filtered products to minors and**
6 **non-consenting adults.**

- 7 1. A person that manufactures, distributes, or sells a product that makes any content on
8 the internet accessible; sells a product without an activated filter set to block content
9 restricted under sections 12-27.3-01, 12.1-27.3-02, and 12.1-27.3-03 to a minor; or
10 provides the means to disable the digital content blocking capability is guilty of
11 violating sections 12.1-27.1-01 or 12.1-27.1-03.
12 2. A person that manufactures, distributes, or sells a product that makes any content on
13 the internet accessible is guilty of a class A misdemeanor if the person provides a
14 product without digital content blocking capability unless the adult consumer has
15 requested, in writing, that the digital content blocking capability be disabled.
16 3. The attorney general has concurrent jurisdiction with a state's attorney under this
17 section or for any violation of this chapter.

18 **12.1-27.3-06. Products that distribute the internet deemed pornographic vending**
19 **machines.**

20 An internet service provider's router, or a cell phone, laptop, computer, gaming device, or
21 other product that distributes the internet or makes the content on the internet available is
22 classified as a pornographic vending machine and must be treated as such under this chapter.

23 **12.1-27.3-07. Immunity from criminal liability.**

- 24 1. A person that manufactures, distributes, or sells a product that makes any content on
25 the internet accessible and which complies with this chapter is immune from criminal
26 liability under this chapter.
27 2. There is no retroactive criminal liability for a person that manufactures, distributes, or
28 sells a product that makes any content on the internet accessible which did not comply
29 with this chapter before August 1, 2017.

1 **12.1-27.3-08. Filter fee.**

2 1. A twenty dollar filter opt-out fee is imposed to help offset the secondary harmful and
3 social effects of products that distribute the internet and make internet content
4 available.

5 2. A person that manufactures, distributes, or sells a product that makes any content on
6 the internet accessible may charge a filter deactivation fee. If a purchaser of a product
7 that distributes or makes content on the internet accessible requests the manufacturer
8 or wholesaler to install a filter, the manufacturer or wholesaler shall do so and withhold
9 the mechanism to deactivate the filter. If the consumer subsequently decides to have
10 the filter deactivated, the manufacturer, distributor, or seller shall collect the twenty
11 dollar filter fee.

12 **12.1-27.3-09. Remission of fee - Submission of reports - Continuing appropriation -**
13 **Grants.**

14 1. Each quarter a person that manufactures or distributes products that distribute the
15 internet shall remit to the tax commissioner all fees collected under section
16 12.1-27.3-04 in the manner prescribed by the commissioner and file a report with the
17 commissioner in the manner and containing the information required by the
18 commissioner. The commissioner shall deposit all fees collected in the crime victims
19 restitution and gift fund. Any deposits into the fund under this section and any earnings
20 on those deposits are appropriated on a continuing basis to the attorney general for
21 awarding grants to organizations providing prevention and treatment services for
22 human trafficking victims.

23 2. The attorney general may disburse a grant to a state agency, political subdivision, or
24 nongovernmental organization to:

25 a. Develop, expand, and strengthen programs for victims of human trafficking and
26 child exploitation, including providing:

27 (1) Health and mental health services;

28 (2) Temporary and permanent housing placement;

29 (3) Legal and immigration services; and

30 (4) Employment placement, education, and training.

31 b. Prevent human trafficking, including increasing public awareness.

1 c. Protecting victims of human trafficking, including training of first responders.

2 **12.1-27.3-10. Duty to maintain the quality of the filters.**

3 1. A manufacturer or wholesaler of a product that distributes the internet or makes
4 content on the internet accessible shall distribute filter updates regularly with routine
5 software bundles to ensure the quality and performance of the filters in blocking
6 restricted content.

7 2. A manufacturer and wholesaler of a product that distributes the internet shall
8 administer a reporting website or call center through which consumers may report
9 restricted content that has breached the filter.

10 3. A manufacturer or wholesaler shall determine within a reasonable amount of time if
11 any reported content is restricted under this chapter and shall distribute a filter update
12 that incorporates the reported material behind the shield within a reasonable amount
13 of time after the determination to ensure continued compliance with this chapter.

14 4. If the manufacturer or wholesaler is nonresponsive to the reporting of restricted
15 content that has breached the filter, the complaining consumer or the attorney general
16 may bring a civil suit against the manufacturer or wholesaler in a court of competent
17 jurisdiction. The consumer or the attorney general may seek five hundred dollars in
18 damages for every piece of content reported, but which was not subsequently filtered
19 by the manufacturer and wholesaler.

20 5. If the consumer prevails in the civil action, the wholesaler or manufacturer also shall
21 reimburse the consumer the purchase price of the product and the prevailing party
22 may seek attorneys fees.

23 **12.1-27.3-11. Duty to unfilter content that is not restricted.**

24 1. If a filter blocks content that is not restricted under this chapter and if reported to the
25 call center or reporting website, the manufacturer or wholesaler shall unblock the
26 content within a reasonable time.

27 2. Declaratory relief a civil court of competent jurisdiction may be sought to unblock
28 filtered content, and the prevailing party to a civil action may seek attorneys fees under
29 this section.

1 3. A manufacturer or wholesaler may not filter any website that is primarily social media
2 and interactive in nature if the website has a reporting center and the manufacturer or
3 wholesaler remains reasonably proactive in removing reported restricted content.

4 **12.1-27.3-12. Duty to not block social interactive websites with reporting centers.**

5 A manufacturer or wholesaler of a product that distributes the internet or makes the content
6 online available may not filter any social interactive website that has a restricted content
7 reporting center.

8 **SECTION 2. AMENDMENT.** Section 54-23.4-05 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **54-23.4-05. Restitution funds, gifts, grants, and bequests - Restitution and gift fund.**

11 The division may accept on behalf of the state all restitution funds, gifts, grants, or bequests
12 of property tendered to the state for any purpose pertaining to the activities of the division in
13 implementing this chapter. The crime victims restitution and gift fund is established as a special
14 fund in the state treasury. All restitution funds, gifts, grants, and bequests of property or money,
15 and any interest occurring thereon, must be placed in the crime victims restitution and gift fund.
16 Subject to legislative appropriation and except as provided in section 12.1-27.3-09, the fund
17 may be used and disbursed by the division in accordance with the terms of the payment or
18 donation or, if there are no terms, for costs and expenses incurred by the division in the
19 implementation of this chapter.