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HOUSE BILL NO. 1592

Offered January 19, 2018

A BILL to amend the Code of Virginia by adding in Chapter 8 of Title 18.2 an article numbered 6.1, consisting of sections numbered 18.2-391.2 through 18.2-391.7, relating to prohibited sale of products with Internet capabilities.

Patrons—LaRock, Edmunds, Fowler, Helsel and Pogge; Senator: Black

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 8 of Title 18.2 an article numbered 6.1, consisting of sections numbered 18.2-391.2 through 18.2-391.7, as follows:

Article 6.1.

Prohibited Sale of Products with Internet Capabilities.

§ 18.2-391.2. Prohibited sale of products with Internet capabilities; obscene content.

It is unlawful for any person to distribute or sell any product that makes content accessible on the Internet unless the product possesses an operating digital content blocking capability that renders obscene content, including obscene items, obscene performances, or obscene exhibitions, inaccessible. Such person shall make reasonable and ongoing efforts to ensure the proper functioning of the digital content blocking capability and shall ensure that the following content is inaccessible: (i) child pornography as defined in § 18.2-374.1, (ii) any image created or disseminated in violation of § 18.2-386.1 or 18.2-386.2, and (iii) any website that facilitates the commission of an offense set forth in Article 3 (§ 18.2-344 et seq.).

§ 18.2-391.3. Disabling of digital content blocking capability.

Any digital blocking capability may be disabled by the person who distributed or sold the product that makes content accessible on the Internet if the purchaser or recipient of the product:

1. Requests that the digital content blocking capability be disabled;

2. Presents photo identification that establishes that the purchaser or recipient is 18 years of age or older;

3. Acknowledges in writing receipt of a written warning provided by the person who distributed or sold the product regarding the potential danger of disabling the digital content blocking capability;

4. Pays a digital access fee of $20 in accordance with subsection A of § 18.2-391.5; and

5. Pays any additional fee charged by the person who distributed or sold the product, if any, which may be retained by such person.

§ 18.2-391.4. Unblocking content that is not obscene.

A. If the digital content blocking capability blocks content that is not obscene and the purchaser or recipient reports such blocked content to the person who distributed or sold the product, the content shall be unblocked within a reasonable time but no later than five business days after the blocked content is reported.

B. The purchaser or recipient may seek judicial relief to unblock content that is not obscene.

§ 18.2-391.5. Exceptions; fees.

A. A consumer or recipient of a product that makes content accessible on the Internet who opts to disable the digital content blocking capability pursuant to § 18.2-391.3 shall pay the $20 digital access fee to the person who distributes or sells the product.

B. A person who distributes or sells a product that makes content accessible on the Internet shall remit on a quarterly basis any fees collected pursuant to subsection B to the State Treasurer to be deposited into the Virginia Prevention of Human Trafficking Victim Fund.

§ 18.2-391.6. Virginia Prevention of Human Trafficking Victim Fund; purpose; guidelines.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Prevention of Human Trafficking Victim Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys accruing to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of supporting victim services and the prosecution of human trafficking cases. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Criminal Justice Services.

B. The Fund shall be administered by the Department of Criminal Justice Services, and the Department shall adopt guidelines for use of the Fund, the purpose of which shall be to make funds available to (i) local attorneys for the Commonwealth for the purpose of funding the cost of additional attorneys or to further dedicate existing resources to prosecute felonies and misdemeanors involving human trafficking and (ii) law-enforcement authorities or appropriate programs, including civil legal assistance, to assist in protecting and providing necessary services to victims of human trafficking.

C. The Department shall establish a grant procedure to govern funds awarded for this purpose.

§ 18.2-391.7. Violation of the Consumer Protection Act.

Any violation of the provisions of this article shall constitute a prohibited practice in accordance with § 59.1-200 and shall be subject to any of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).