

HOUSE BILL No. 2777

By Committee on Federal and State Affairs

3-14

1 AN ACT concerning consumer protection; relating to unconscionable acts
2 or practices; requiring technology protection measures on internet-
3 accessible devices; enacting the human trafficking and child
4 exploitation prevention act; establishing the human trafficking and
5 child exploitation prevention fund.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. Sections 1 through 4, and amendments thereto, shall be
9 known and may be cited as the human trafficking and child exploitation
10 prevention act.

11 Sec. 2. As used in this act:

12 (a) "Child pornography" shall have the meaning ascribed to it in
13 K.S.A. 2017 Supp. 75-2589, and amendments thereto.

14 (b) "Distributor" means any person who manufactures, sells, offers
15 for sale, leases or distributes a product in this state that makes content
16 accessible on the internet.

17 (c) "Obscene" shall have the meaning ascribed to it in K.S.A. 2017
18 Supp. 21-6401, and amendments thereto, and includes, but is not limited
19 to:

20 (1) Child pornography;

21 (2) revenge pornography, as described in K.S.A. 2017 Supp. 21-
22 6101(a)(8), and amendments thereto; and

23 (3) websites known to facilitate:

24 (A) The selling of sexual relations, as described in K.S.A. 2017 Supp.
25 21-6419, and amendments thereto; and

26 (B) human trafficking, as described in K.S.A. 2017 Supp. 21-5426,
27 and amendments thereto.

28 (d) "Technology protection measure" means any computer technology
29 or other process that blocks or filters online access to obscene content.

30 Sec. 3. (a) Except as provided in subsection (e), a distributor may not
31 manufacture, sell, offer for sale, lease or distribute to a consumer any
32 product or service that makes content accessible on the internet, unless
33 such product or service contains an active and operating technology
34 protection measure. Such technology protection measure must be
35 distributed by an entity that:

36 (1) Regularly makes available to consumers updates to the

1 technology protection measure to ensure that the technology protection
2 measure is sufficiently blocking access to obscene content;

3 (2) maintains a website or telephone line that consumers can use to
4 report:

5 (A) Obscene content that is not blocked by the technology protection
6 measure; and

7 (B) content that is not obscene that is blocked by the technology
8 protection measure; and

9 (3) has in place procedures for evaluating reports made pursuant to
10 subparagraph (B) and, if necessary, updating the technology protection
11 measure within five days.

12 (b) Any distributor that intentionally violates this section shall be
13 guilty of a class A nonperson misdemeanor.

14 (c) The technology protection measure may not block access to social
15 media websites that provide a means for the websites' users to report
16 obscene content and have in place procedures for evaluating those reports
17 and removing obscene content.

18 (d) Any person may seek judicial relief to unblock any content that
19 has been blocked by the technology protection measure. The prevailing
20 party in the civil action may seek attorney fees and costs.

21 (e) A distributor may deactivate the technology protection measure
22 for a product or service if the consumer who purchased or leased the
23 product or service:

24 (1) Requests that the technology protection measure be deactivated;

25 (2) presents identification verifying that the consumer is at least 18
26 years of age;

27 (3) acknowledges a written warning regarding the potential danger of
28 deactivating the technology protection measure; and

29 (4) pays a one-time deactivation fee of \$20.

30 (f) Nothing in this act shall prevent a distributor from charging any
31 fee in addition to the one-time deactivation fee of \$20. Any additional fee
32 may be kept by the distributor to help defray the costs for maintaining and
33 operating the technology protection measure.

34 (g) There is hereby established in the state treasury the human
35 trafficking and child exploitation prevention fund. All moneys credited to
36 such fund shall be used for the purpose of awarding grants to any
37 individual, governmental agency or non-profit organization that the
38 attorney general determines is working to prevent the creation,
39 dissemination or consumption of obscene content.

40 (h) Each quarter, a distributor shall remit all of the moneys received
41 from the collection of the one-time deactivation fee under this act to the
42 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
43 amendments thereto. Upon receipt of each such remittance, the state

1 treasurer shall deposit the entire amount in the state treasury to the credit
2 of the human trafficking and child exploitation prevention fund created by
3 K.S.A. 2017 Supp. 75-758, and amendments thereto.

4 Sec. 4. (a) This act shall be part of and supplemental to the Kansas
5 consumer protection act.

6 (b) Any violation of this act shall be an unconscionable act or practice
7 under the Kansas consumer protection act and shall be subject to any and
8 all of the remedies and enforcement provisions of the Kansas consumer
9 protection act.

10 (c) The attorney general shall remit all penalties and fines collected
11 pursuant to this section to the state treasurer in accordance with the
12 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
13 each such remittance, the state treasurer shall deposit the entire amount in
14 the state treasury to the credit of the human trafficking and child
15 exploitation prevention fund.

16 Sec. 5. This act shall take effect and be in force from and after its
17 publication in the statute book.