

HOUSE BILL NO. 492

INTRODUCED BY B. TSCHIDA

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE PROTECTING CHILDREN ON THE INTERNET ACT; REQUIRING CONSUMERS TO CHOOSE WHETHER TO RECEIVE HARD-CORE PORNOGRAPHY OVER THE INTERNET; REQUIRING INTERNET SERVICES PROVIDERS TO OFFER INTERNET SERVICE THAT DOES NOT CONTAIN HARD-CORE PORNOGRAPHY; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Protecting Children on the Internet Act".

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 4] is to protect minors from hard-core pornography distributed over the internet by providing consumers with the ability to choose whether to receive content that contains hard-core pornography.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) "Consumer" means a person or business with a billing address in this state that purchases internet or cellular service through any means or purchases an internet-enabled device.

(2) (a) "Hard-core pornography" means material that:

(i) would be considered obscenity under 45-8-201; or

(ii) is sexual in nature and explicitly depicts genitals or genital contact involving a person or an object.

(b) The term does not include:

(i) nudity of an artistic nature that does not depict genital contact; or

(ii) content that is equivalent to content in a film rated "R" by the motion picture association.

1 (3) "Internet services provider" has the meaning provided in 2-17-602.

2 (4) "Internet-enabled device" means equipment that allows a consumer in this state to access the
3 internet and view or download content from the internet.

4 (5) "Minor" means a person under 18 years of age.
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6 **NEW SECTION. Section 4. Limitations on internet access to hard-core pornography -- penalty.**

7 (1) (a) An internet services provider operating in this state shall provide to a consumer an option to opt in or opt
8 out of receiving hard-core pornography through the internet service.

9 (b) The option to opt in or opt out of receiving hard-core pornography must be provided:

10 (i) within 60 days of [the effective date of this act], to a consumer who purchased internet service from
11 an internet services provider prior to [the effective date of this act]; and

12 (ii) on or after [the effective date of this act], to a consumer whenever the consumer purchases or
13 renews internet service.

14 (2) To opt in to receiving hard-core pornography, a consumer must:

15 (a) be 18 years of age or older; and

16 (b) attest that the internet service or internet-enabled device is not intended for use by a minor.

17 (3) A consumer who opts out of receiving hard-core pornography must be provided with internet
18 service that does not contain hard-core pornography. The internet service must be provided at the same quality
19 and speed as the service provided to a consumer who has chosen to receive hard-core pornography.

20 (4) An internet services provider shall consider a person who declines to opt in or opt out of receiving
21 hard-core pornography to have opted out of receiving hard-core pornography. The consumer may not receive
22 hard-core pornography unless the consumer makes a declaration in accordance with subsection (2).

23 (5) An internet services provider may not:

24 (a) charge a consumer a higher rate or fee for opting out of receiving hard-core pornography;

25 (b) use information about a consumer's decision under this section for any purpose other than
26 compliance with this section; or

27 (c) share the information with a third party.

28 (6) (a) An internet services provider that purposely or knowingly violates this section is guilty of a

1 misdemeanor and on conviction may be fined an amount not to exceed \$5,000 or be imprisoned for a term not
2 to exceed 6 months, or both.

3 (b) An internet services provider that had reasonable cause to believe a consumer was 18 years of
4 age or older is not considered in violation of this section.

5 (c) For the purposes of this section, the following definitions apply:

6 (i) "Knowingly" has the meaning provided in 45-2-101.

7 (ii) "Purposely" has the meaning provided in 45-2-101.

8 (iii) "Reasonable cause" has the meaning provided in 45-8-206.

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10 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be
11 codified as a new part in Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1
12 through 4].

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14 NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2021.

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