

SENATE BILL 550

I3, C2, F1

9lr2615

By: **Senators King, Astle, Brinkley, Colburn, Conway, Currie, DeGrange, Della, Exum, Forehand, Garagiola, Gladden, Glassman, Greenip, Haines, Harrington, Harris, Jacobs, Jones, Kelley, Kittleman, Klausmeier, Kramer, Lenett, Madaleno, McFadden, Middleton, Miller, Munson, Muse, Peters, Pinsky, Pugh, Raskin, Robey, Rosapepe, Stoltzfus, Stone, and Zirkin**

Introduced and read first time: February 5, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Online Child Safety Act of 2009**

3 FOR the purpose of promoting online child safety through the dissemination of certain
4 parental controls; requiring certain Internet access providers to make certain
5 parental controls available to certain subscribers at certain times and under
6 certain circumstances; providing for the qualifications of certain parental
7 controls; providing for the application of certain requirements; authorizing an
8 Internet access provider to make certain parental controls available in certain
9 manners; providing that a violation of this Act is an unfair or deceptive trade
10 practice subject to certain enforcement; requiring the State Department of
11 Education to develop certain guidelines for online child safety, including certain
12 information; stating the intent of the General Assembly; defining certain terms;
13 and generally relating to online child safety.

14 BY repealing and reenacting, with amendments,
15 Article – Commercial Law
16 Section 13–301(14)(xxii) through (xxvi)
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2008 Supplement)

19 BY adding to
20 Article – Commercial Law
21 Section 13–301(14)(xxii); and 14–3701 through 14–3706 to be under the new
22 subtitle “Subtitle 37. Online Child Safety Act”
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
 2 Article – Education
 3 Section 7–430
 4 Annotated Code of Maryland
 5 (2008 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Commercial Law**

9 13–301.

10 Unfair or deceptive trade practices include any:

11 (14) Violation of a provision of:

12 **(XXII) TITLE 14, SUBTITLE 37 OF THIS ARTICLE, THE ONLINE**
 13 **CHILD SAFETY ACT;**

14 [(xxii)] **(XXIII)** Section 14–1319 or § 14–1320 of this article;

15 [(xxiii)] **(XXIV)** Section 7–304 of the Criminal Law Article;

16 [(xxiv)] **(XXV)** Title 7, Subtitle 3 of the Real Property Article,
 17 the Protection of Homeowners in Foreclosure Act;

18 [(xxv)] **(XXVI)** Title 6, Subtitle 13 of the Environment Article;
 19 or

20 [(xxvi)] **(XXVII)** Section 7–405(e)(2)(ii) of the Health
 21 Occupations Article; or

22 **SUBTITLE 37. ONLINE CHILD SAFETY ACT.**

23 **14–3701.**

24 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 25 **INDICATED.**

26 **(B) “CHILD” MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.**

27 **(C) “COMPUTER NETWORK” MEANS THE COMPUTER NETWORK**
 28 **COMMONLY KNOWN AS THE INTERNET AND ANY OTHER LOCAL, REGIONAL, OR**

1 GLOBAL COMPUTER NETWORK THAT IS SIMILAR TO OR IS A PREDECESSOR OF
2 OR SUCCESSOR TO THE INTERNET.

3 (D) "INTERNET" MEANS THE INTERNATIONAL COMPUTER NETWORK OF
4 BOTH FEDERAL AND NONFEDERAL INTEROPERABLE PACKET-SWITCHED DATA
5 NETWORKS.

6 (E) (1) "INTERNET ACCESS PROVIDER" MEANS A PROVIDER THAT
7 OFFERS DIRECTLY TO RESIDENTIAL CUSTOMERS AN INTERACTIVE COMPUTER
8 SERVICE TO OBTAIN ACCESS TO THE INTERNET IN EXCHANGE FOR
9 CONSIDERATION, SUCH AS THROUGH A PAID SUBSCRIPTION OR THROUGH AN
10 AGREEMENT TO VIEW SPECIFIC ADVERTISING OR OTHER CONTENT.

11 (2) "INTERNET ACCESS PROVIDER" DOES NOT INCLUDE A
12 LIBRARY OR EDUCATIONAL INSTITUTION THAT OPERATES OR OFFERS AN
13 INTERACTIVE COMPUTER SERVICE TO OBTAIN ACCESS TO THE INTERNET.

14 (F) (1) "INTERACTIVE COMPUTER SERVICE" MEANS AN
15 INFORMATION SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT
16 PROVIDES OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A
17 COMPUTER SERVICE.

18 (2) "INTERACTIVE COMPUTER SERVICE" INCLUDES A SERVICE OR
19 SYSTEM THAT PROVIDES ACCESS TO THE INTERNET AND SYSTEMS OPERATED
20 OR SERVICES OFFERED BY A LIBRARY OR EDUCATIONAL INSTITUTION.

21 (G) "PARENTAL CONTROL" MEANS A PRODUCT OR SERVICE TO
22 CONTROL THE ACCESS OF A CHILD TO THE INTERNET.

23 **14-3702.**

24 **IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS SUBTITLE:**

25 (1) **PROMOTE THE DISSEMINATION OF QUALIFYING PARENTAL**
26 **CONTROLS FOR THE PROTECTION OF CHILDREN IN THE STATE SUBJECT TO**
27 **APPROPRIATE AND BENEFICIAL OVERSIGHT BY THEIR PARENTS AND FAMILIES;**
28 **AND**

29 (2) **BE CONSTRUED LIBERALLY FOR THE PROTECTION OF**
30 **FAMILIES AND CHILDREN IN THE STATE.**

31 **14-3703.**

1 **THIS SUBTITLE APPLIES TO AN INTERNET ACCESS PROVIDER THAT**
2 **KNOWS OR HAS REASON TO KNOW THAT A SUBSCRIBER CURRENTLY RESIDES IN**
3 **THE STATE.**

4 **14-3704.**

5 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN**
6 **INTERNET ACCESS PROVIDER SHALL MAKE A PARENTAL CONTROL THAT**
7 **SATISFIES THE REQUIREMENTS OF THIS SECTION AVAILABLE TO EACH**
8 **SUBSCRIBER IN THE STATE.**

9 **(2) THE INTERNET ACCESS PROVIDER MAY NOT BE REQUIRED TO**
10 **PROVIDE A PARENTAL CONTROL THAT IS NOT REASONABLY AND**
11 **COMMERCIALY AVAILABLE FOR THE TECHNOLOGY THAT THE SUBSCRIBER**
12 **USES TO OBTAIN ACCESS TO THE INTERNET.**

13 **(B) A PARENTAL CONTROL SHALL ALLOW THE SUBSCRIBER, IN A**
14 **COMMERCIALY REASONABLE MANNER, TO:**

15 **(1) BLOCK ALL ACCESS TO THE INTERNET;**

16 **(2) BLOCK A CHILD'S ACCESS TO WEBSITES BY SPECIFYING**
17 **PROHIBITED WEBSITES OR BY SELECTING A CATEGORY OF SITES TO BLOCK;**

18 **(3) RESTRICT A CHILD'S ACCESS EXCLUSIVELY TO WEBSITES**
19 **THAT THE SUBSCRIBER APPROVES OR A CATEGORY OF WEBSITES THAT THE**
20 **SUBSCRIBER APPROVES;**

21 **(4) RESTRICT A CHILD'S ACCESS TO WEBSITES THAT THE**
22 **INTERNET ACCESS PROVIDER DESIGNATES; OR**

23 **(5) MONITOR A CHILD'S USE OF THE INTERNET BY PROVIDING A**
24 **REPORT TO THE SUBSCRIBER INDICATING:**

25 **(I) EACH SPECIFIC WEBSITE THAT THE CHILD HAS**
26 **ATTEMPTED TO VISIT BUT WAS UNABLE TO VIEW BECAUSE THE SUBSCRIBER**
27 **BLOCKED OR RESTRICTED ACCESS TO THE WEBSITE; OR**

28 **(II) EACH SPECIFIC WEBSITE THAT THE CHILD HAS VISITED.**

29 **14-3705.**

1 (A) **THE INTERNET ACCESS PROVIDER SHALL MAKE AVAILABLE TO THE**
2 **SUBSCRIBER, AT OR NEAR THE TIME OF SUBSCRIPTION, A PARENTAL CONTROL**
3 **THAT SATISFIES THE REQUIREMENTS OF § 14-3704 OF THIS SUBTITLE.**

4 (B) **THE INTERNET ACCESS PROVIDER MAY MAKE THE PARENTAL**
5 **CONTROL AVAILABLE TO THE SUBSCRIBER EITHER DIRECTLY OR THROUGH A**
6 **LINK TO A THIRD PARTY.**

7 (C) **THE INTERNET ACCESS PROVIDER OR THIRD PARTY MAY CHARGE**
8 **FOR THE PARENTAL CONTROL.**

9 **14-3706.**

10 **THIS SUBTITLE MAY BE CITED AS THE ONLINE CHILD SAFETY ACT.**

11 **Article - Education**

12 **7-430.**

13 (A) **THE DEPARTMENT SHALL DEVELOP GUIDELINES FOR INSTRUCTION**
14 **ON INTERNET SAFETY.**

15 (B) **THE GUIDELINES SHALL INCLUDE THE PRODUCTION OF MATERIALS**
16 **FOR DISTRIBUTION TO PARENTS AND STUDENTS TO ASSIST IN THE EFFECTIVE**
17 **USE OF PARENTAL CONTROLS THAT INTERNET ACCESS PROVIDERS ARE**
18 **REQUIRED TO MAKE AVAILABLE UNDER TITLE 14, SUBTITLE 37 OF THE**
19 **COMMERCIAL LAW ARTICLE, THE ONLINE CHILD SAFETY ACT.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2009.