

# SENATE BILL 550

I3, C2, F1

9lr2615

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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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2009

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## CHAPTER \_\_\_\_\_

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) though (xxvi)  
17 Annotated Code of Maryland  
18 (2005 Replacement Volume and 2008 Supplement)

19 BY adding to

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Commercial Law  
 2 Section 13–301(14)(xxii); and 14–3701 through 14–3706 to be under the new  
 3 subtitle “Subtitle 37. Online Child Safety Act”  
 4 Annotated Code of Maryland  
 5 (2005 Replacement Volume and 2008 Supplement)

6 ~~BY adding to~~  
 7 ~~Article – Education~~  
 8 ~~Section 7–430~~  
 9 ~~Annotated Code of Maryland~~  
 10 ~~(2008 Replacement Volume)~~

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

13 **Article – Commercial Law**

14 13–301.

15 Unfair or deceptive trade practices include any:

16 (14) Violation of a provision of:

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

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

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

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

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

24 or

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

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

28 **14–3701.**

29 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
 30 **INDICATED.**

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

1 (C) "COMPUTER NETWORK" MEANS THE COMPUTER NETWORK  
 2 COMMONLY KNOWN AS THE INTERNET AND ANY OTHER LOCAL, REGIONAL, OR  
 3 GLOBAL COMPUTER NETWORK THAT IS SIMILAR TO OR IS A PREDECESSOR OF  
 4 OR SUCCESSOR TO THE INTERNET.

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

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

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

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

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

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

25 14-3702.

26 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS SUBTITLE:

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

31 (2) ~~BE CONSTRUED LIBERALLY FOR THE PROTECTION OF~~  
 32 ~~FAMILIES AND CHILDREN IN THE STATE.~~

33 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; AND**

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

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

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

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

25           ~~**(1) 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           ~~**(2) 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.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.