

1 HOUSE BILL NO. 349
2 INTRODUCED BY L. SHELDON-GALLOWAY, J. SCHILLINGER, B. MITCHELL, T. MOORE, G. KMETZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN OBSCENITY FILTER BE ENABLED BY
5 DEFAULT ON ELECTRONIC DEVICES SOLD AND ACTIVATED IN THE STATE; PROVIDING FOR
6 LEGISLATIVE INTENT; AMENDING SECTION 45-8-206, MCA; AND PROVIDING AN EFFECTIVE DATE AND
7 AN APPLICABILITY DATE."

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

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11 NEW SECTION. Section 1. Short title. [Sections 1 through 6] may be cited as the "Children's Default
12 to Safety Act".

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14 NEW SECTION. Section 2. Definitions. For the purposes of [sections 1 through 6], the following
15 definitions apply:

16 (1) "Activate" means the process of powering on an electronic device and associating it with a new
17 user account.

18 (2) "Electronic device" means a tablet or a smart phone.

19 (3) "Internet" has the same meaning as provided in 2-17-551.

20 (4) "Manufacturer" means a person that is engaged in the business of manufacturing an electronic
21 device and has a commercial registered agent as defined in 35-7-102 AND A PATENT.

22 (5) "Obscenity filter" means software installed on an electronic device that is capable of preventing
23 the electronic device from accessing or displaying obscenity, pursuant to 45-8-201, through the internet or any
24 applications owned and controlled by the manufacturer and installed on the device.

25 (6) "Smart phone" means an electronic device that combines a cell phone with a hand-held
26 computer, typically offering internet access, data storage, text, and e-mail capabilities.

27 (7) "Tablet" means an electronic device equipped with a mobile operating system, touchscreen
28 display, and rechargeable battery, typically offering internet access.

Amendment - 1st Reading-white - Requested by: Terry Moore - (H) Appropriations

- 2023

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Drafter: Julie Johnson, 406-444-4024

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1 (b) sell, furnish, present, distribute, or otherwise disseminate to a minor or allow a minor to view,
2 with or without consideration, any obscene material; or

3 (c) present to a minor or participate in presenting to a minor, with or without consideration, any
4 performance that is obscene to minors.

5 (2) A person who is not a minor's parent or legal guardian may not provide a minor with the
6 passcode to remove the obscenity filter on an electronic device, as those terms are defined in [section 1].

7 (2)(3) A person does not violate this section if:

8 (a) the person had reasonable cause to believe the minor was 18 years of age. "Reasonable
9 cause" includes but is not limited to being shown a draft card, driver's license, marriage license, birth certificate,
10 educational identification card, governmental identification card, tribal identification card, or other official or
11 apparently official card or document purporting to establish that the person is 18 years of age;

12 (b) the person is, or is acting as, an employee of a bona fide public school, college, or university or
13 a retail outlet affiliated with and serving the educational purposes of a school, college, or university and the
14 material or performance was disseminated in accordance with policies approved by the governing body of the
15 institution;

16 (c) the person is an officer, director, trustee, or employee of a public library or museum and the
17 material or performance was acquired by the library or museum and disseminated in accordance with policies
18 approved by the governing body of the library or museum;

19 (d) an exhibition in a state of nudity is for a bona fide scientific or medical purpose for a bona fide
20 school, library, or museum; or

21 (e) the person is a retail sales clerk with no financial interest in the material or performance or in
22 the establishment displaying or selling the material or performance."
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24 **NEW SECTION. Section 8. Legislative intent.** It is the intent of the legislature that the department of
25 justice comply with the provisions of [this act] within existing resources.

27 **NEW SECTION. Section 9. Effective date.** [This act] is effective January 1, 2024.
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