

House Engrossed

electronic devices; filters; obscene material

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2661

AN ACT

AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 29;
RELATING TO PERSONAL ELECTRONIC DEVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, Arizona Revised Statutes, is amended by adding
3 chapter 29, to read:

4 CHAPTER 29

5 PERSONAL ELECTRONIC DEVICES

6 ARTICLE 1. GENERAL PROVISIONS

7 44-7201. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ACTIVATE" MEANS THE PROCESS OF POWERING ON A DEVICE AND
10 ASSOCIATING IT WITH A NEW USER ACCOUNT.

11 2. "DEVICE" MEANS A TABLET OR A SMARTPHONE THAT IS MANUFACTURED ON
12 OR AFTER JANUARY 1, 2026.

13 3. "FILTER" MEANS GENERALLY ACCEPTED AND COMMERCIALY REASONABLE
14 SOFTWARE USED ON A DEVICE AND THAT IS CAPABLE OF PREVENTING THE DEVICE
15 FROM ACCESSING OR DISPLAYING OBSCENE MATERIAL THROUGH INTERNET BROWSERS
16 AND SEARCH ENGINES OWNED AND CONTROLLED BY THE MANUFACTURER IN ACCORDANCE
17 WITH PREVAILING INDUSTRY STANDARDS VIA MOBILE DATA NETWORKS, WIRED
18 INTERNET NETWORKS AND WIRELESS INTERNET NETWORKS.

19 4. "INTERNET" MEANS THE GLOBAL INFORMATION SYSTEM THAT IS LOGICALLY
20 LINKED TOGETHER BY A GLOBALLY UNIQUE ADDRESS SPACE BASED ON THE INTERNET
21 PROTOCOL, OR ITS SUBSEQUENT EXTENSIONS, THAT IS ABLE TO SUPPORT
22 COMMUNICATIONS USING THE TRANSMISSION CONTROL PROTOCOL OR INTERNET
23 PROTOCOL SUITE, OR ITS SUBSEQUENT EXTENSIONS, OR OTHER INTERNET
24 PROTOCOL-COMPATIBLE PROTOCOLS, AND THAT PROVIDES, USES OR MAKES
25 ACCESSIBLE, EITHER PUBLICLY OR PRIVATELY, HIGH-LEVEL SERVICES LAYERED ON
26 COMMUNICATIONS AND RELATED INFRASTRUCTURE.

27 5. "MANUFACTURER" MEANS A PERSON TO WHOM ALL OF THE FOLLOWING
28 APPLY:

29 (a) IS ENGAGED IN THE BUSINESS OF MANUFACTURING A DEVICE.

30 (b) EITHER:

31 (i) HOLDS THE PATENTS FOR THE DEVICE IT MANUFACTURES.

32 (ii) HOLDS THE PATENTS FOR THE OPERATING SYSTEM ON A DEVICE.

33 (c) HAS A STATUTORY AGENT THAT IS DESIGNATED WITH THE CORPORATION
34 COMMISSION PURSUANT TO TITLE 10 OR 29.

35 6. "MINOR" MEANS AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE
36 AND WHO IS NOT EMANCIPATED, MARRIED OR A MEMBER OF THE UNITED STATES ARMED
37 FORCES.

38 7. "OBSCENE MATERIAL" MEANS MATERIAL THAT:

39 (a) THE AVERAGE PERSON APPLYING CONTEMPORARY COMMUNITY STANDARDS
40 WOULD FIND, TAKEN AS A WHOLE, APPEALS TO THE PRURIENT INTEREST.

41 (b) THE AVERAGE PERSON APPLYING CONTEMPORARY COMMUNITY STANDARDS
42 WOULD FIND HAS PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF
43 EITHER:

44 (i) ULTIMATE SEXUAL ACTS, NORMAL OR PERVERTED, ACTUAL OR SIMULATED,
45 INCLUDING SEXUAL INTERCOURSE OR SODOMY.

1 (ii) MASTURBATION, EXCRETORY FUNCTIONS, SADOMASOCHISTIC ABUSE OR
2 LEWD EXHIBITION OF THE GENITALS.

3 (c) TAKEN AS A WHOLE, A REASONABLE PERSON WOULD FIND LACKS SERIOUS
4 LITERARY, EDUCATIONAL, ARTISTIC, POLITICAL OR SCIENTIFIC VALUE.

5 8. "OPERATING SYSTEM" MEANS SOFTWARE THAT MANAGES ALL OF THE OTHER
6 APPLICATION PROGRAMS ON A DEVICE.

7 9. "PASSWORD" MEANS A STRING OF CHARACTERS OR ANOTHER SECURE METHOD
8 THAT IS USED TO ENABLE, DEACTIVATE, MODIFY OR UNINSTALL A FILTER ON A
9 DEVICE.

10 10. "SMARTPHONE" MEANS AN ELECTRONIC DEVICE THAT COMBINES A
11 CELLULAR TELEPHONE WITH A HANDHELD COMPUTER AND THAT TYPICALLY OFFERS
12 INTERNET ACCESS THROUGH A BROWSER OR SEARCH ENGINE, DATA STORAGE, TEXT AND
13 EMAIL CAPABILITIES.

14 11. "TABLET" MEANS AN INTERNET-READY DEVICE THAT IS EQUIPPED WITH
15 AN OPERATING SYSTEM, TOUCHSCREEN DISPLAY AND RECHARGEABLE BATTERY AND THAT
16 HAS THE ABILITY TO SUPPORT ACCESS TO A CELLULAR NETWORK.

17 44-7202. Filter required

18 BEGINNING JANUARY 1, 2026, A DEVICE THAT IS ACTIVATED IN THIS STATE
19 MUST DO ALL OF THE FOLLOWING:

20 1. CONTAIN A FILTER.

21 2. ASK THE USER TO INPUT THE USER'S AGE DURING ACTIVATION AND
22 ACCOUNT SETUP.

23 3. AUTOMATICALLY ENABLE THE FILTER WHEN THE AGE PROVIDED BY THE
24 USER AS DESCRIBED IN PARAGRAPH 2 OF THIS SECTION INDICATES THAT THE USER
25 IS A MINOR.

26 4. ALLOW A PASSWORD TO BE ESTABLISHED FOR THE FILTER.

27 5. NOTIFY THE USER OF THE DEVICE WHEN THE FILTER BLOCKS THE DEVICE
28 FROM ACCESSING A WEBSITE.

29 6. PROVIDE AN OPPORTUNITY TO DEACTIVATE OR REACTIVATE THE FILTER BY
30 USING A PASSWORD.

31 44-7203. Manufacturer liability

32 A. BEGINNING JANUARY 1, 2026, A MANUFACTURER IS SUBJECT TO CIVIL
33 AND CRIMINAL LIABILITY IF ALL OF THE FOLLOWING APPLY:

34 1. THE DEVICE IS ACTIVATED IN THIS STATE.

35 2. ON ACTIVATION, THE DEVICE DOES NOT ENABLE A FILTER THAT COMPLIES
36 WITH SECTION 44-7202.

37 3. A MINOR ACCESSES OBSCENE MATERIAL THAT IS ON THE DEVICE.

38 B. FOR THE PURPOSES OF ASSESSING A PENALTY UNDER SECTION 44-7205, A
39 MANUFACTURER IS CONSIDERED TO HAVE COMMITTED A SEPARATE VIOLATION FOR EACH
40 DEVICE THAT IS MANUFACTURED ON OR AFTER JANUARY 1, 2026.

41 C. THIS SECTION DOES NOT APPLY TO A MANUFACTURER THAT MAKES A GOOD
42 FAITH EFFORT TO PROVIDE A DEVICE THAT, ON ACTIVATION OF THE DEVICE IN THIS
43 STATE, AUTOMATICALLY ENABLES A FILTER IN ACCORDANCE WITH SECTION 44-7202.

1 D. THIS CHAPTER DOES NOT CREATE A CAUSE OF ACTION AGAINST THE
2 RETAILER OF A DEVICE INCLUDING AN EMPLOYEE OF A RETAILER ACTING IN THE
3 COURSE AND SCOPE OF THE EMPLOYEE'S EMPLOYMENT.

4 44-7204. Individual liability; applicability

5 A. A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE IS SUBJECT TO
6 CIVIL LIABILITY FOR INTENTIONALLY ENABLING A PASSWORD TO REMOVE A FILTER
7 ON A DEVICE THAT IS IN THE POSSESSION OF A MINOR IF THE MINOR ACCESSES
8 OBSCENE MATERIAL THAT IS ON THE DEVICE.

9 B. THIS SECTION DOES NOT APPLY TO THE MINOR'S PARENT OR LEGAL
10 GUARDIAN.

11 44-7205. Enforcement; attorney general

12 A. IF THE ATTORNEY GENERAL HAS REASON TO BELIEVE THAT A PERSON WHO
13 IS AT LEAST EIGHTEEN YEARS OF AGE HAS VIOLATED OR IS VIOLATING THIS
14 CHAPTER, THE ATTORNEY GENERAL, ACTING IN THE PUBLIC INTEREST, MAY BRING AN
15 ACTION IN THE NAME OF THIS STATE AGAINST THE PERSON TO DO ANY OF THE
16 FOLLOWING:

17 1. ENJOIN ANY ACTION THAT CONSTITUTES A VIOLATION OF THIS CHAPTER
18 BY ISSUING A TEMPORARY RESTRAINING ORDER OR PRELIMINARY OR PERMANENT
19 INJUNCTION.

20 2. RECOVER A CIVIL PENALTY OF NOT MORE THAN \$5,000 PER VIOLATION,
21 NOT TO EXCEED A TOTAL OF \$50,000.

22 3. RECOVER THE ATTORNEY GENERAL'S REASONABLE EXPENSES,
23 INVESTIGATIVE COSTS AND ATTORNEY FEES.

24 4. OBTAIN OTHER APPROPRIATE RELIEF AS PROVIDED FOR UNDER THIS
25 CHAPTER.

26 B. THE ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO ANY PERSON AND
27 CONDUCT HEARINGS IN ANY INVESTIGATION OR INQUIRY RELATED TO A POSSIBLE
28 VIOLATION OF THIS CHAPTER.

29 C. THE ATTORNEY GENERAL MAY SEEK THE REVOCATION OF ANY LICENSE OR
30 CERTIFICATE AUTHORIZING A MANUFACTURER TO ENGAGE IN BUSINESS IN THIS
31 STATE.

32 44-7206. Civil action; parent or legal guardian; relief

33 A. A PARENT OR LEGAL GUARDIAN OF A MINOR WHO ACCESSES OBSCENE
34 MATERIAL THAT IS IN VIOLATION OF SECTION 44-7202 MAY BRING A PRIVATE CAUSE
35 OF ACTION IN ANY COURT OF COMPETENT JURISDICTION AGAINST:

36 1. A MANUFACTURER THAT FAILS TO COMPLY WITH SECTION 44-7202.

37 2. A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE WHO IS NOT A
38 PARENT OR LEGAL GUARDIAN OF THE MINOR AND WHO DISABLES A FILTER FROM A
39 DEVICE IN THE MINOR'S POSSESSION THAT RESULTS IN THE MINOR'S EXPOSURE TO
40 OBSCENE MATERIAL.

41 B. THE PARENT OR LEGAL GUARDIAN OF A MINOR WHO BRINGS AN ACTION
42 UNDER THIS SECTION MAY RECOVER:

43 1. ACTUAL DAMAGES OR, IN THE COURT'S DISCRETION WHERE ACTUAL
44 DAMAGES ARE DIFFICULT TO ASCERTAIN DUE TO THE NATURE OF THE INJURY,
45 LIQUIDATED DAMAGES IN THE AMOUNT OF \$50,000 FOR EACH VIOLATION.

