

REFERENCE TITLE: **electronic devices; filters; obscene material**

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

HB 2661

Introduced by
Representatives Toma: Bliss, Dunn, Grantham

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 SOFTWARE THAT IS INSTALLED ON A DEVICE AND THAT
14 IS CAPABLE OF PREVENTING THE DEVICE FROM ACCESSING OR DISPLAYING OBSCENE
15 MATERIAL THROUGH INTERNET BROWSERS OR SEARCH ENGINES VIA MOBILE DATA
16 NETWORKS, WIRED INTERNET NETWORKS AND WIRELESS INTERNET NETWORKS.

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

25 5. "MANUFACTURER" MEANS A PERSON TO WHOM ALL OF THE FOLLOWING
26 APPLY:

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

28 (b) HOLDS THE PATENTS FOR THE DEVICE IT MANUFACTURES.

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

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

34 7. "OBSCENE MATERIAL" MEANS MATERIAL THAT:

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

37 (b) THE AVERAGE PERSON APPLYING CONTEMPORARY COMMUNITY STANDARDS
38 WOULD FIND HAS PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF
39 EITHER:

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

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

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

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

4 9. "SMARTPHONE" MEANS AN ELECTRONIC DEVICE THAT COMBINES A CELLULAR
5 TELEPHONE WITH A HANDHELD COMPUTER AND THAT TYPICALLY OFFERS INTERNET
6 ACCESS THROUGH A BROWSER OR SEARCH ENGINE, DATA STORAGE, TEXT AND EMAIL
7 CAPABILITIES.

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

11 44-7202. Filter required

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

14 1. CONTAIN A FILTER.

15 2. DETERMINE THE AGE OF THE USER DURING ACTIVATION AND ACCOUNT
16 SETUP.

17 3. SET THE FILTER TO "ON" FOR MINOR USERS.

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

19 5. NOTIFY THE USER OF THE DEVICE WHEN THE FILTER BLOCKS THE DEVICE
20 FROM ACCESSING A WEBSITE.

21 6. PROVIDE AN OPPORTUNITY TO DEACTIVATE OR REACTIVATE THE FILTER BY
22 USING A PASSWORD.

23 44-7203. Manufacturer liability

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

26 1. THE DEVICE IS ACTIVATED IN THIS STATE.

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

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

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

33 C. THIS SECTION DOES NOT APPLY TO A MANUFACTURER THAT MAKES A GOOD
34 FAITH EFFORT TO PROVIDE A DEVICE THAT, ON ACTIVATION OF THE DEVICE IN THIS
35 STATE, AUTOMATICALLY ENABLES A GENERALLY ACCEPTED AND COMMERCIALY
36 REASONABLE FILTER THAT BLOCKS OBSCENE MATERIAL ON ALL INTERNET BROWSERS OR
37 SEARCH ENGINES THAT ARE ACCESSED ON THE DEVICE IN ACCORDANCE WITH THIS
38 SECTION.

39 D. THIS CHAPTER DOES NOT CREATE A CAUSE OF ACTION AGAINST THE
40 RETAILER OF A DEVICE.

41 44-7204. Individual liability; applicability

42 A. A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE IS SUBJECT TO
43 CIVIL LIABILITY FOR ENABLING A PASSWORD TO REMOVE A FILTER ON A DEVICE
44 THAT IS IN THE POSSESSION OF A MINOR IF THE MINOR ACCESSES OBSCENE
45 MATERIAL THAT IS ON THE DEVICE.

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

3 44-7205. Enforcement; attorney general

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

9 1. ENJOIN ANY ACTION THAT CONSTITUTES A VIOLATION OF THIS CHAPTER
10 BY ISSUING A TEMPORARY RESTRAINING ORDER OR PRELIMINARY OR PERMANENT
11 INJUNCTION.

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

14 3. RECOVER THE ATTORNEY GENERAL'S REASONABLE EXPENSES,
15 INVESTIGATIVE COSTS AND ATTORNEY FEES.

16 4. OBTAIN OTHER APPROPRIATE RELIEF AS PROVIDED FOR UNDER THIS
17 CHAPTER.

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

21 C. THE ATTORNEY GENERAL MAY SEEK THE REVOCATION OF ANY LICENSE OR
22 CERTIFICATE AUTHORIZING A MANUFACTURER TO ENGAGE IN BUSINESS IN THIS
23 STATE.

24 44-7206. Civil action; parent or legal guardian; relief

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

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

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

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

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

38 2. PUNITIVE DAMAGES IN AN AMOUNT DETERMINED BY THE COURT, IF THE
39 COURT FINDS THE VIOLATION IS KNOWING AND WILFUL.

40 3. NOMINAL DAMAGES.

41 4. ANY OTHER RELIEF THE COURT DEEMS APPROPRIATE, INCLUDING COURT
42 COSTS AND EXPENSES.

43 5. ATTORNEY FEES.

44 C. THIS SECTION DOES NOT PRECLUDE A CLASS ACTION LAWSUIT AGAINST A
45 MANUFACTURER THAT KNOWINGLY AND WILFULLY VIOLATES SECTION 44-7202.

