

HOUSE BILL 1212

E1, D3, P1
HB 1311/24 – ECM

5lr2991

By: **Delegate McComas**

Introduced and read first time: February 6, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Obscene Material – Device Filters**

3 FOR the purpose of requiring, beginning on a certain date, each device activated in the
4 State to enable a certain filter to prevent minors from accessing obscene material;
5 prohibiting a certain person from deactivating the filter; providing that a
6 manufacturer of a device and certain persons are subject to civil and criminal
7 liability for certain conduct related to device filters; authorizing the Attorney
8 General to take certain actions against persons who violate this Act; authorizing
9 parents or legal guardians of minors who access obscene material to file a private
10 cause of action against a certain manufacturer or person; and generally relating to
11 obscene material and device filters.

12 BY repealing and reenacting, without amendments,
13 Article – Criminal Law
14 Section 11–203(a)(5) and (b)
15 Annotated Code of Maryland
16 (2021 Replacement Volume and 2024 Supplement)

17 BY adding to
18 Article – Criminal Law
19 Section 11–203.1
20 Annotated Code of Maryland
21 (2021 Replacement Volume and 2024 Supplement)

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

24 **Article – Criminal Law**

25 11–203.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) (5) "Obscene" means:

(i) that the average adult applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;

(ii) that the work depicts sexual conduct specified in subsection (b) of this section in a way that is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material; and

(iii) that the work, taken as a whole, lacks serious artistic, educational, literary, political, or scientific value.

(b) (1) A person may not willfully or knowingly display or exhibit to a minor an item:

(i) the cover or content of which is principally made up of an obscene description or depiction of illicit sex; or

(ii) that consists of an obscene picture of a nude or partially nude figure.

(2) A person may not willfully or knowingly engage in the business of displaying, exhibiting, selling, showing, advertising for sale, or distributing to a minor an item:

(i) the cover or content of which is principally made up of an obscene description or depiction of illicit sex; or

(ii) that consists of an obscene picture of a nude or partially nude figure.

(3) If a newsstand or other place of business is frequented by minors, the owner, operator, franchisee, manager, or an employee with managerial responsibility may not openly and knowingly display at the place of business an item whose sale, display, exhibition, showing, or advertising is prohibited by paragraph (2) of this subsection.

11-203.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ACTIVATE" MEANS THE PROCESS OF POWERING ON A DEVICE AND ASSOCIATING IT WITH A NEW USER ACCOUNT.

(3) "DEVICE" MEANS A TABLET OR A SMART PHONE MANUFACTURED ON OR AFTER JANUARY 1, 2026.

(4) "FILTER" MEANS SOFTWARE INSTALLED ON A DEVICE THAT IS CAPABLE OF PREVENTING THE DEVICE FROM ACCESSING OR DISPLAYING OBSCENE MATERIAL THROUGH INTERNET BROWSERS OR SEARCH ENGINES.

(5) "INTERNET" MEANS THE GLOBAL INFORMATION SYSTEM THAT:

(I) IS LOGICALLY LINKED TOGETHER BY A GLOBALLY UNIQUE ADDRESS SPACE BASED ON THE INTERNET PROTOCOL, OR ITS SUBSEQUENT EXTENSIONS, THAT IS ABLE TO SUPPORT COMMUNICATIONS USING THE TRANSMISSION CONTROL PROTOCOL OR INTERNET PROTOCOL SUITE, OR ITS SUBSEQUENT EXTENSIONS, OR OTHER INTERNET PROTOCOL-COMPATIBLE PROTOCOLS; AND

(II) PROVIDES, USES, OR MAKES ACCESSIBLE, EITHER PUBLICLY OR PRIVATELY, HIGH-LEVEL SERVICES LAYERED ON COMMUNICATIONS AND RELATED INFRASTRUCTURE.

(6) "MANUFACTURER" MEANS A PERSON OR COMPANY THAT:

(I) IS ENGAGED IN THE BUSINESS OF MANUFACTURING A DEVICE;

(II) HOLDS THE PATENTS FOR THE DEVICE IT MANUFACTURES; AND

(III) HAS A COMMERCIALY DESIGNATED REGISTERED AGENT IN THE STATE.

(7) "MINOR" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS WHO IS NOT:

(I) EMANCIPATED;

(II) MARRIED; OR

(III) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES.

(8) "OBSCENE" HAS THE MEANING STATED IN § 11-203 OF THIS SUBTITLE.

(9) "PASSWORD" MEANS A STRING OF CHARACTERS OR OTHER SECURE METHOD USED TO ENABLE, DEACTIVATE, MODIFY, OR UNINSTALL A FILTER ON A DEVICE.

(10) "SMART PHONE" MEANS AN ELECTRONIC DEVICE THAT COMBINES A CELL PHONE WITH A HAND-HELD COMPUTER, TYPICALLY OFFERING INTERNET ACCESS THROUGH A BROWSER OR SEARCH ENGINE, DATA STORAGE, TEXT, AND E-MAIL CAPABILITIES.

(11) "TABLET" MEANS AN INTERNET-READY DEVICE EQUIPPED WITH:

(I) AN OPERATING SYSTEM, TOUCHSCREEN DISPLAY, AND RECHARGEABLE BATTERY; AND

(II) THE ABILITY TO SUPPORT ACCESS TO A CELLULAR NETWORK.

(B) BEGINNING JANUARY 1, 2026, EACH DEVICE ACTIVATED IN THE STATE SHALL:

(1) DETERMINE THE AGE OF THE USER DURING ACTIVATION AND ACCOUNT SET-UP;

(2) ENABLE AN EXISTING FILTER FOR MINOR USERS, AT WHICH POINT THE FILTER MUST BE SET TO THE ON POSITION WHEN THE USER IS A MINOR;

(3) PREVENT A MINOR FROM ACCESSING OBSCENE MATERIAL THROUGH EACH INTERNET BROWSER OR SEARCH ENGINE ON THE DEVICE VIA:

(I) MOBILE DATA NETWORKS;

(II) WIRED INTERNET NETWORKS; AND

(III) WIRELESS INTERNET NETWORKS;

(4) NOTIFY THE MINOR USER OF THE DEVICE WHEN THE FILTER BLOCKS THE DEVICE FROM ACCESSING A WEBSITE; AND

(5) ALLOW PARENTS OR LEGAL GUARDIANS OF MINOR USERS TO:

(I) DISABLE THE FILTER OR UNBLOCK A WEBSITE AFTER PROVIDING REASONABLE AGE VERIFICATION; AND

(II) CREATE A PASSWORD THAT MAY THEN BE USED TO REACTIVATE THE FILTER AT ANY TIME.

(C) A PERSON, OTHER THAN A PARENT OR LEGAL GUARDIAN, MAY NOT DEACTIVATE OR UNINSTALL THE FILTER REQUIRED UNDER SUBSECTION (B) OF THIS SECTION FOR A MINOR UNDER THE CARE AND CONTROL OF THE PARENT OR GUARDIAN.

(D) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, BEGINNING JANUARY 1, 2026, A MANUFACTURER OF A DEVICE SHALL BE SUBJECT TO CIVIL AND CRIMINAL LIABILITY IF:

(I) A DEVICE IS ACTIVATED IN THE STATE;

(II) THE DEVICE DOES NOT, ON ACTIVATION, ENABLE A FILTER THAT COMPLIES WITH THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION; AND

(III) A MINOR ACCESSES OBSCENE MATERIAL ON THE DEVICE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THIS SECTION DOES NOT APPLY TO A MANUFACTURER THAT MAKES A GOOD FAITH EFFORT TO PROVIDE A DEVICE THAT, ON ACTIVATION OF THE DEVICE IN THE STATE, AUTOMATICALLY ENABLES A GENERALLY ACCEPTED AND COMMERCIALY REASONABLE FILTER THAT BLOCKS OBSCENE MATERIAL ON ALL INTERNET BROWSERS OR SEARCH ENGINES ACCESSED ON THE DEVICE IN ACCORDANCE WITH THIS SECTION.

(3) THIS SECTION MAY NOT BE CONSTRUED TO CREATE A CAUSE OF ACTION AGAINST THE RETAILER OF A DEVICE.

(E) (1) EXCEPT FOR A MINOR'S PARENT OR LEGAL GUARDIAN, A PERSON IS CIVILLY LIABLE FOR DISABLING THE FILTER ON A DEVICE IN THE POSSESSION OF THE MINOR IF THE MINOR ACCESSES OBSCENE MATERIAL.

(2) (I) BEGINNING JANUARY 1, 2026, EXCEPT FOR A PARENT OR LEGAL GUARDIAN, A PERSON MAY NOT DISABLE THE FILTER ON A DEVICE IN THE POSSESSION OF A MINOR.

(II) A PERSON WHO VIOLATES THIS PARAGRAPH IS SUBJECT TO:

1. FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$5,000; AND

1 **2. FOR A SECOND OR SUBSEQUENT OFFENSE,**
2 **IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$50,000.**

3 **(F) (1) IF THE ATTORNEY GENERAL HAS REASON TO BELIEVE THAT A**
4 **PERSON VIOLATED OR IS VIOLATING THIS SECTION, THE ATTORNEY GENERAL,**
5 **ACTING IN PUBLIC INTEREST, MAY FILE A CIVIL CAUSE OF ACTION IN THE NAME OF**
6 **THE STATE AGAINST THE PERSON TO:**

7 **(I) ENJOIN AN ACTION THAT CONSTITUTES A VIOLATION OF**
8 **THIS SECTION BY THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER OR**
9 **PRELIMINARY OR PERMANENT INJUNCTION;**

10 **(II) RECOVER FROM THE ALLEGED VIOLATOR A CIVIL PENALTY**
11 **NOT EXCEEDING \$5,000 PER VIOLATION, AND NOT EXCEEDING \$50,000 IN**
12 **AGGREGATE, AS DETERMINED BY THE COURT;**

13 **(III) RECOVER FROM THE ALLEGED VIOLATOR THE ATTORNEY**
14 **GENERAL'S REASONABLE EXPENSES, INVESTIGATIVE COSTS, AND ATTORNEY'S**
15 **FEES; AND**

16 **(IV) OBTAIN OTHER APPROPRIATE RELIEF.**

17 **(2) THE ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO A PERSON**
18 **AND CONDUCT HEARINGS IN AID OF AN INVESTIGATION OR INQUIRY IN ADDITION TO**
19 **OTHER POWERS CONFERRED ON THE ATTORNEY GENERAL BY THIS SECTION.**

20 **(3) THE ATTORNEY GENERAL MAY SEEK THE REVOCATION OF A**
21 **LICENSE OR CERTIFICATE AUTHORIZING A MANUFACTURER TO ENGAGE IN**
22 **BUSINESS IN THE STATE.**

23 **(4) FOR PURPOSES OF ASSESSING A PENALTY UNDER THIS SECTION,**
24 **A MANUFACTURER IS CONSIDERED TO HAVE COMMITTED A SEPARATE VIOLATION**
25 **FOR EACH DEVICE MANUFACTURED ON OR AFTER JANUARY 1, 2026, THAT VIOLATES**
26 **THE PROVISIONS OF THIS SECTION.**

27 **(G) (1) A PARENT OR LEGAL GUARDIAN OF A MINOR WHO ACCESSES**
28 **OBSCENE MATERIAL IN VIOLATION OF THIS SECTION MAY FILE A PRIVATE CAUSE OF**
29 **ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST A MANUFACTURER WHO**
30 **FAILS TO COMPLY WITH THIS SECTION.**

31 **(2) A PREVAILING PLAINTIFF MAY RECOVER:**

1 **(I) ACTUAL DAMAGES;**

2 **(II) IN THE DISCRETION OF THE COURT WHERE ACTUAL**
3 **DAMAGES ARE DIFFICULT TO ASCERTAIN DUE TO THE NATURE OF THE INJURY,**
4 **LIQUIDATED DAMAGES IN THE AMOUNT OF \$50,000 FOR EACH VIOLATION;**

5 **(III) WHEN THE VIOLATION IS FOUND TO BE KNOWING AND**
6 **WILLFUL, PUNITIVE DAMAGES IN AN AMOUNT DETERMINED BY THE COURT;**

7 **(IV) NOMINAL DAMAGES;**

8 **(V) OTHER RELIEF AS THE COURT CONSIDERS APPROPRIATE,**
9 **INCLUDING REASONABLE COURT COSTS AND EXPENSES; AND**

10 **(VI) REASONABLE ATTORNEY'S FEES.**

11 **(3) THIS SECTION MAY NOT BE CONSTRUED TO PRECLUDE THE**
12 **BRINGING OF A CLASS ACTION LAWSUIT AGAINST A MANUFACTURER WHEN ITS**
13 **CONDUCT IN VIOLATION OF THIS SECTION IS KNOWING AND WILLFUL.**

14 **(4) A PARENT OR LEGAL GUARDIAN OF A MINOR WHO ACCESSES**
15 **OBSCENE MATERIAL IN VIOLATION OF THIS SECTION MAY FILE A PRIVATE CAUSE OF**
16 **ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST A PERSON WHO**
17 **DISABLES THE FILTER FROM A DEVICE THAT RESULTS IN THE CHILD BEING**
18 **EXPOSED TO OBSCENE CONTENT.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2025.