



General Assembly

Substitute Bill No. 46

February Session, 2006

* SB00046KIDJUD030906 *

AN ACT ESTABLISHING AN ELECTRONIC MESSAGE CHILDREN'S PROTECTION REGISTRY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2006*) As used in sections 2 to 4,
2 inclusive, of this act:

3 (1) "Contact point" means any electronic mail address, Internet
4 messaging address, facsimile number, wireless telephone number or
5 electronic pager number; and

6 (2) "Minor" means any individual who has not attained the age of
7 eighteen years.

8 Sec. 2. (NEW) (*Effective July 1, 2006*) (a) Not later than July 1, 2007,
9 the Department of Consumer Protection shall establish a children's
10 protection registry that enables a parent or guardian of a minor to
11 register any contact point held by such parent or guardian, for use by
12 such minor, with the department for the purpose of preventing the
13 receipt of any electronic message at such contact point that contains
14 information relating to goods or services that such minor is prohibited
15 from viewing, purchasing, possessing or utilizing under any state or
16 federal criminal law. Such registry shall also enable any school or
17 school district in the state to register any contact point that such school
18 or district holds for the use of minors.

19 (b) Any parent, guardian, school or school district that registers a
20 contact point with the department, pursuant to subsection (a) of this
21 section, shall register, cancel or renew such registration in accordance
22 with registration procedures adopted by the Commissioner of
23 Consumer Protection. Such registration or renewal shall be valid for
24 the lesser of three years or until such minor attains the age of eighteen
25 years. The department shall not collect any fee for the registration of a
26 contact point or the renewal or cancellation of such registration.

27 (c) Any person wishing to send an electronic message described in
28 subsection (a) of this section to a contact point shall first verify with the
29 department that such contact point is not registered with the
30 department pursuant to subsection (a) of this section. The department
31 shall establish a verification system that enables any person wishing to
32 send an electronic message described in subsection (a) of this section to
33 a contact point to verify whether such contact point is registered under
34 the provisions of this section. The department shall collect a reasonable
35 fee from any person that utilizes such verification system.

36 (d) The commissioner may enter into a contract with a third party
37 for the development, administration and maintenance of the registry
38 or verification system described in subsection (a) or (c) of this section,
39 respectively.

40 (e) Any information contained in the registry created pursuant to
41 subsection (a) of this section shall not be subject to disclosure under
42 the provisions of chapter 14 of the general statutes.

43 (f) On or before January 1, 2007, the commissioner shall adopt
44 regulations, in accordance with chapter 54 of the general statutes, to
45 implement the provisions of this section. Such regulations shall
46 include, but are not limited to, procedures for the registration of a
47 contact point, procedures for the cancellation or renewal of a
48 registration, rules relating to the use of the verification system
49 established by the department and a fee schedule for use of such
50 verification system.

51 Sec. 3. (NEW) (*Effective July 1, 2006*) (a) No person shall send or
52 conspire to send to a contact point that has been registered for more
53 than thirty days, in accordance with section 2 of this act, any electronic
54 message that contains information relating to goods or services that a
55 minor is prohibited from viewing, purchasing, possessing or utilizing
56 under any state or federal criminal law. For purposes of this section,
57 "send" or "conspire to send" does not include the acts of an
58 intermediary that transmits, routes, relays or temporarily stores,
59 through an automatic technical process, the electronic message on
60 behalf of another if the intermediary does not choose the recipient of
61 the electronic message.

62 (b) A person shall not be deemed to have violated the provisions of
63 subsection (a) of this section if such person unknowingly provides the
64 computer network, Internet service, wireless telephone service or other
65 facility for transmission that is utilized by any other person to send an
66 electronic message in violation of subsection (a) of this section.

67 (c) Any person who violates the provisions of subsection (a) of this
68 section shall: (1) For any such first violation, be imprisoned for a
69 period not to exceed one year or fined not more than ten thousand
70 dollars, or both, (2) for any second violation, be imprisoned for a
71 period not to exceed two years or fined not more than twenty
72 thousand dollars, or both, and (3) for any third violation or subsequent
73 violation thereafter, be imprisoned for a period not to exceed three
74 years or fined not more than thirty thousand dollars, or both.

75 (d) In any prosecution for a violation of subsection (a) of this
76 section, it shall be an affirmative defense that the defendant
77 accidentally transmitted such electronic message.

78 (e) In any prosecution for a violation of subsection (a) of this section,
79 it shall not be an affirmative defense that the recipient of such
80 electronic message consented to the receipt of such message.

81 Sec. 4. (NEW) (*Effective July 1, 2006*) (a) Any parent, guardian, school
82 or school district that registers a contact point in accordance with the

83 provisions of section 2 of this act shall have a cause of action against
84 any person who sends an electronic message to such contact point in
85 violation of the provisions of subsection (a) of section 3 of this act.

86 (b) Any person described in subsection (b) of section 3 of this act
87 shall have a cause of action against any person who sends an electronic
88 message to such contact point in violation of the provisions of
89 subsection (b) of section 3 of this act.

90 (c) The Attorney General may bring a cause of action against any
91 person who violates the provisions of subsection (a) of section 3 of this
92 act and may conduct an investigation of the business practices of any
93 such person. The Attorney General shall have power to summon
94 witnesses, require the production of any necessary books, papers or
95 other documents and administer oaths to witnesses, where necessary,
96 for the purpose of such investigation.

97 (d) In any prosecution of a claim brought pursuant to subsection (a),
98 (b) or (c) of this section, it shall be an affirmative defense that such
99 defendant accidentally transmitted such electronic message.

100 (e) In any action brought pursuant to the provisions of subsection
101 (a), (b) or (c) of this section, such parent, guardian, school, school
102 district or the Attorney General, when the prevailing party, shall be
103 entitled to: (1) Actual damages, including reasonable attorney's fees, or
104 (2) the lesser of five thousand dollars for each such violating message
105 received or two hundred fifty thousand dollars for each day such
106 violation exists, if such prevailing party does not sustain any actual
107 damages.

108 (f) In any action brought pursuant to subsection (a) or (b) of this
109 section, the defendant, when the prevailing party, shall be entitled to
110 reasonable attorney's fees if the court determines that such action is
111 frivolous.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	New section
Sec. 2	<i>July 1, 2006</i>	New section
Sec. 3	<i>July 1, 2006</i>	New section
Sec. 4	<i>July 1, 2006</i>	New section

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Joint Favorable Subst. C/R

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