

5171

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to offering parental controls for internet services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public service law is amended by adding a new article
2 12 to read as follows:

3 ARTICLE 12

4 INTERNET PARENTAL CONTROLS

5 SECTION 300. DEFINITIONS.

6 301. PARENTAL CONTROLS.

7 302. ENFORCEMENT.

8 S 300. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

9 1. "CHILD" MEANS A PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE.

10 2. "INTERNET OR ANY OTHER COMPUTER NETWORK" MEANS THE COMPUTER NETWORK
11 COMMONLY KNOWN AS THE INTERNET AND ANY OTHER LOCAL, REGIONAL OR GLOBAL
12 COMPUTER NETWORK THAT IS SIMILAR TO OR IS A PREDECESSOR OR SUCCESSOR OF
13 THE INTERNET.

14 3. "INTERNET ACCESS PROVIDER" MEANS AN ENTITY THAT PROVIDES CONSUMERS
15 WITH PUBLIC ACCESS TO THE INTERNET.

16 4. "INTERACTIVE COMPUTER SERVICE" MEANS ANY INFORMATION SERVICE,
17 SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT PROVIDES OR ENABLES COMPUTER
18 ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER, INCLUDING SPECIFICALLY A
19 SERVICE OR SYSTEM THAT PROVIDES ACCESS TO THE INTERNET AND SUCH SYSTEMS
20 OPERATED OR SERVICES OFFERED BY LIBRARIES OR EDUCATIONAL INSTITUTIONS.

21 S 301. PARENTAL CONTROLS. 1. IF AN INTERNET ACCESS PROVIDER KNOWS OR
22 HAS REASON TO KNOW FROM REGISTRATION DATA IN ITS POSSESSION THAT A
23 SUBSCRIBER CURRENTLY RESIDES WITHIN THIS STATE, THE PROVIDER SHALL MAKE
24 AVAILABLE TO THE SUBSCRIBER A PRODUCT OR SERVICE WHICH THE PROVIDER

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 REASONABLY BELIEVES MAY ASSIST THE SUBSCRIBER TO CONTROL A CHILD'S USE
2 OF THE INTERNET; PROVIDED HOWEVER, THAT INTERNET ACCESS PROVIDERS THAT
3 PROVIDE INTERNET ACCESS VIA SPECTRUM REGULATED BY THE FCC, PURSUANT TO
4 47 USC 301 ET SEQ OR ITS SUCCESSORS, SHALL MEET THE REQUIREMENTS OF THIS
5 SECTION WHEN SUCH TECHNOLOGY IS REASONABLY AND COMMERCIALY AVAILABLE.
6 THE PRODUCT OR SERVICE MUST ENABLE, IN A COMMERCIALY REASONABLE MANNER,
7 THE SUBSCRIBER TO:

8 (A) BLOCK A CHILD'S ACCESS TO SPECIFIC WEBSITES OR DOMAINS;

9 (B) RESTRICT A CHILD'S ACCESS EXCLUSIVELY TO SPECIFIC WEBSITES OR
10 DOMAINS APPROVED BY THE SUBSCRIBER; AND

11 (C) ALLOW THE SUBSCRIBER TO MONITOR A CHILD'S USE OF THE INTERNET
12 SERVICE BY PROVIDING A REPORT TO THE SUBSCRIBER OF THE SPECIFIC WEBSITES
13 OR DOMAINS THAT THE CHILD HAS VISITED OR HAS ATTEMPTED TO VISIT BUT
14 COULD NOT ACCESS BECAUSE THE WEBSITES OR DOMAINS WERE BLOCKED OR
15 RESTRICTED BY THE SUBSCRIBER.

16 2. IF A PRODUCT OR SERVICE DESCRIBED IN THIS SECTION IS REASONABLY AND
17 COMMERCIALY AVAILABLE FOR THE TECHNOLOGY UTILIZED BY THE SUBSCRIBER TO
18 ACCESS THE INTERNET SERVICE, THE PROVIDER OF INTERNET SERVICE:

19 (A) SHALL PROVIDE TO THE SUBSCRIBER, AT OR NEAR THE TIME OF
20 SUBSCRIPTION, NOTICE OF THE AVAILABILITY OF A PRODUCT OR SERVICE
21 DESCRIBED IN SUBDIVISION ONE OF THIS SECTION.

22 (B) MAY MAKE A PRODUCT OR SERVICE DESCRIBED IN SUBDIVISION ONE OF THIS
23 SECTION AVAILABLE TO THE SUBSCRIBER EITHER DIRECTLY OR THROUGH A THIRD-
24 PARTY VENDOR, AND MAY CHARGE FOR THE PRODUCT OR SERVICE.

25 S 302. ENFORCEMENT. 1. THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION
26 AGAINST ANY INTERNET ACCESS PROVIDER THAT VIOLATES THIS ARTICLE TO
27 ENJOIN THE VIOLATION AND MAY RECOVER A CIVIL PENALTY OF UP TO ONE
28 HUNDRED DOLLARS PER VIOLATION OF THIS ARTICLE OR, FOR A PATTERN OR PRAC-
29 TICE OF SUCH VIOLATIONS, OF UP TO ONE THOUSAND DOLLARS PER VIOLATION.

30 2. NOTHING IN THIS SECTION SHALL IN ANY WAY LIMIT RIGHTS OR REMEDIES
31 WHICH ARE OTHERWISE AVAILABLE UNDER LAW TO THE ATTORNEY GENERAL OR ANY
32 OTHER PERSON AUTHORIZED TO BRING AN ACTION UNDER THIS SECTION.

33 S 2. This act shall take effect on the one hundred eightieth day after
34 it shall have become a law.