

2009-2010 Regular Sessions

I N S E N A T E

January 16, 2009

Introduced by Sen. LANZA -- 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 ENABLES THE

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

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

7 (A) BLOCK A CHILD'S ACCESS TO SPECIFIC WEBSITES OR DOMAINS;
8 (B) RESTRICT A CHILD'S ACCESS EXCLUSIVELY TO SPECIFIC WEBSITES OR
9 DOMAINS APPROVED BY THE SUBSCRIBER; AND
10 (C) ALLOW THE SUBSCRIBER TO MONITOR A CHILD'S USE OF THE INTERNET
11 SERVICE BY PROVIDING A REPORT TO THE SUBSCRIBER OF THE SPECIFIC WEBSITES
12 OR DOMAINS THAT THE CHILD HAS VISITED OR HAS ATTEMPTED TO VISIT BUT
13 COULD NOT ACCESS BECAUSE THE WEBSITES OR DOMAINS WERE BLOCKED OR
14 RESTRICTED BY THE SUBSCRIBER.

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

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

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

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

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

32 S 2. This act shall take effect on the ninetieth day after it shall
33 have become a law.