S T A T E O F N E W Y O R K

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I N A S S E M B L Y

March 9, 2011

Introduced by M. of A. KAVANAGH, ENGLEBRIGHT, GALEF, MARKEY, PHEFFER, SCHROEDER, SPANO, FINCH, GIGLIO, MOLINARO, TOBACCO, ROBINSON, HOOPER, CUSICK, JAFFEE, ROSENTHAL, GABRYSZAK, TITONE, MENG, COLTON, JEFFRIES -- read once and referred to the Committee on Codes

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:

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

ARTICLE 12

INTERNET PARENTAL CONTROLS

SECTION 300. DEFINITIONS.
301. PARENTAL CONTROLS.
302. ENFORCEMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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