Committee Report

CONSENT CALENDAR

February 10, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Resources, Recreation and Development to which was referred HB 99,

AN ACT relative to seasonal platforms on public waters of the state. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Andrew Renzullo

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Resources, Recreation and Development**
Bill Number:	**HB 99**
Title:	**relative to seasonal platforms on public waters of the state.**
Date:	**February 10, 2021**
Consent Calendar:	**CONSENT**
Recommendation:	**OUGHT TO PASS WITH AMENDMENT 2021-0203h**

STATEMENT OF INTENT

This bill requires that any person seeking to anchor a floating dock, seasonal platform, inflatable platform or float on public waters of the state adhere to requirements specified by the Department of Safety, Division of Marine Patrol. As more and more people flock to New Hampshire's beautiful lakes, there is a proliferation of more and larger anchored floats, platforms, inflatable rafts and other "toys" used in water recreation. The situation has grown such that regulation is required as a platform could, if improperly sited, constitute a hazard to the public safety because it interferes with or impedes, or could potentially interfere with or impede, navigation, or be in such proximity to moorings or to other anchored seasonal platforms as to constitute a hazard to public safety, or be situated in such a manner that the platform presents an unreasonable adverse effect on the environment, including but not limited to water quality, wildlife habitats, or natural areas, or be situated in such a manner that it unreasonably interferes with other recreational uses of the water and adjacent land. The Director of Marine Patrol shall develop rules pursuant to this legislation. The bill was amended to exempt government agencies engaged in the non-recreational execution of their duties such as construction and repair. The amendment also removed regulations concerning view obstruction from the bill.

Vote 20-0.

Rep. Andrew Renzullo
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Resources, Recreation and Development

HB 99, relative to seasonal platforms on public waters of the state. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Andrew Renzullo for Resources, Recreation and Development. This bill requires that any person seeking to anchor a floating dock, seasonal platform, inflatable platform or float on public waters of the state adhere to requirements specified by the department of safety, division of marine patrol. As more and more people flock to New Hampshire's beautiful lakes, there is a proliferation of more and larger anchored floats, platforms, inflatable rafts and other "toys" used in water recreation. The situation has grown such that regulation is required as a platform could, if improperly sited, constitute a hazard to the public safety because it interferes with or impedes, or could potentially interfere with or impede, navigation, or be in such proximity to moorings or to other anchored seasonal platforms as to constitute a hazard to public safety, or be situated in such a manner that the platform presents an unreasonable adverse effect on the environment, including but not limited to water quality, wildlife habitats, or natural areas, or be situated in such a manner that it unreasonably interferes with other recreational uses of the water and adjacent land. The Director of Marine Patrol shall develop rules pursuant to this legislation. The bill was amended to exempt government agencies engaged in the non-recreational execution of their duties such as construction and repair. The amendment also removed regulations concerning view obstruction from the bill. **Vote 20-0.**

Original: House Clerk
Cc: Committee Bill File

Rep. Suzanne Smith, Graf. 8
February 2, 2021
2021-0203h
11/06

Amendment to HB 99

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Anchored Seasonal Platforms. Amend RSA 270 by inserting after section 72-a the following new subdivision:

Anchored Seasonal Platforms

270:72-b Definitions. In this subdivision:

I. "Anchored seasonal platform" means a seasonal platform, inflatable platform, float, or device attached to such platform, inflatable platform, or float, that is attached by chains, cables, ropes, or related equipment to a fixed object or stationary point, or that is attached to an anchor or weight which is designed to rest on the bed or to be buried in the bed of a navigable body of water.

II. "Director" means the director, division of state police, department of safety.

III. "Division" means the division of state police, department of safety.

IV. "Shorefront property" means any property abutting public waters of the state. "Shorefront property" shall include:

(a) A lot on the public waters that is divided by a road so that the lot is on the opposite side of the road from the public waters or divided by an exclusive right-of-way which has been acquired as a result of an eminent domain proceeding which resulted in the break or loss of property between the property owner's residence and shore frontage.

(b) A lot of record with not less than 25 feet of frontage.

(c) Shorefront property shall not mean a deeded right-of-way, nor shall it mean lots not contiguous to the shore with any other type of legal shorefront access. Property owned in common by associations and other groups shall be deemed owned by the group and shall not convey any rights to individual members of such group.

270:72-c Anchored Seasonal Platform; Limitations.

I. No person shall erect, install, maintain, or exercise control over an anchored seasonal platform on the public waters of the state who is not the legal owner of the adjacent shorefront property.

II. Any person erecting, installing, maintaining, or exercising control over an anchored seasonal platform on any public body of water shall attach his or her name and contact information to any such seasonal platform as provided in this subdivision.

270:72-d Anchored Seasonal Platform Prohibited.

I. No anchored seasonal platform shall be located:

any conservation groups engaged in the non-recreational execution of their duties including, but not limited to, work related to law enforcement, bridge and road work, pollution control, the protection of fish and wildlife, or environmental studies.

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 99

BILL TITLE: relative to seasonal platforms on public waters of the state.

DATE: February 3, 2021

LOB ROOM: Hybrid

MOTIONS: **OUGHT TO PASS WITH AMENDMENT**

Moved by Rep. Post | Seconded by Rep. Gunski | AM Vote: 20-0

Amendment # 2021-0203h

Moved by Rep. Post | Seconded by Rep. Gunski | Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Juliet Harvey-Bolia, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on

BILL TITLE: HB 99 as amended

DATE: 02/03/21

LOB ROOM: 306 / 308

MOTION: (Please check one box)

☒ OTP ☐ ITL ☐ Retain (1st year) ☒ Adoption of Amendment # 2034 *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. POST Seconded by Rep. Gunski Vote: 20/0

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. POST Seconded by Rep. Gunski Vote: 20-0

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: X YES ____ NO

Minority Report? ____ Yes X No If yes, author, Rep: _____ Motion ____

Respectfully submitted: _____

Rep Juliet Harvey-Bolia, Clerk

OFFICE OF THE HOUSE CLERK

1/22/2021 10:09:09 AM
Roll Call Committee Registers Report

Amendment for HB 99

2021 SESSION

Resources, Recreation and Development

Bill #: HB99 **Motion:** pass amendment **AM #:** 2034 **Exec Session Date:** 02/03/21

Members	YEAS	Nays	NV
Renzullo, Andrew Chairman	✓		
Gunski, Michael D. Vice Chairman	✓		
Gould, Linda R.	✓		
Horgan, James F.	✓		
Harb, Robert D.	✓		
Creighton, Jim L.	✓		
Dodge, Dustin	✓		
Harvey-Bolia, Juliet Clerk	✓		
Healey, Robert V.	✓		
Mayville, Mary L.	✓		
Post, Lisa C.M.	✓		
Smith, Suzanne J.	✓		
Spang, Judith T.	✓		
Grassie, Chuck W.	✓		
Gottling, Suzanne H.	✓		
Cohen, Bruce L.	✓		
~~Rung, Rosemarie~~			
Connors, Erika F.	✓		
Vail, Suzanne M.	✓		
Kelley, Eamon P.	✓		
Moran, Melbourne R.	✓		
	20	Ø	

OFFICE OF THE HOUSE CLERK

1/22/2021 10:09:09 AM
Roll Call Committee Registers Report

2021 SESSION

Resources, Recreation and Development

Bill #: HB99 Motion: OTP w/Amendment AM #: 203H Exec Session Date: 02/03/21

Members	YEAS	Nays	NV
Renzullo, Andrew Chairman	✓		
Gunski, Michael D. Vice Chairman	✓		
Gould, Linda R.	✓		
Horgan, James F.	✓		
Harb, Robert D.	✓		
Creighton, Jim L.	✓		
Dodge, Dustin	✓		
Harvey-Bolia, Juliet Clerk	✓		
Healey, Robert V.	✓		
Mayville, Mary L.	✓		
Post, Lisa C.M.	✓		
Smith, Suzanne J.	✓		
Spang, Judith T.	✓		
Grassie, Chuck W.	✓		
Gottling, Suzanne H.	✓		
Cohen, Bruce L.	✓		
~~Rung, Rosemarie~~			
Connors, Erika F.	✓		
Vail, Suzanne M.	✓		
Kelley, Eamon P.	✓		
Moran, Melbourne R.	✓		
	20	Ø	

Rep. Suzanne Smith, Graf. 8
February 2, 2021
2021-0203h
11/06

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(a) A lot on the public waters that is divided by a road so that the lot is on the opposite side of the road from the public waters or divided by an exclusive right-of-way which has been acquired as a result of an eminent domain proceeding which resulted in the break or loss of property between the property owner's residence and shore frontage.

(b) A lot of record with not less than 25 feet of frontage.

(c) Shorefront property shall not mean a deeded right-of-way, nor shall it mean lots not contiguous to the shore with any other type of legal shorefront access. Property owned in common by associations and other groups shall be deemed owned by the group and shall not convey any rights to individual members of such group.

270:72-c Anchored Seasonal Platform; Limitations.

I. No person shall erect, install, maintain, or exercise control over an anchored seasonal platform on the public waters of the state who is not the legal owner of the adjacent shorefront property.

II. Any person erecting, installing, maintaining, or exercising control over an anchored seasonal platform on any public body of water shall attach his or her name and contact information to any such seasonal platform as provided in this subdivision.

270:72-d Anchored Seasonal Platform Prohibited.

I. No anchored seasonal platform shall be located:

(a) In such a manner that it constitutes a hazard to the public safety because it interferes with or impedes, or could potentially interfere with or impede, navigation; or

(b) In such proximity to moorings or to other anchored seasonal platforms as to constitute a hazard to public safety; or

(c) In such a manner that it presents an unreasonable adverse effect on the environment, including but not limited to water quality, wildlife habitats, or natural areas; or

(d) In such a manner that it unreasonably interferes with other recreational uses of the water and adjacent land.

II. The director shall develop rules for the purposes of this subdivision pursuant to RSA 541-A and 270:72-g.

270:72-e Removal of Anchored Seasonal Platforms; Powers of Director.

I. The director or his agents shall remove or cause the removal of, or shall move or cause the moving of, any anchored seasonal platform, which:

(a) Is in violation of RSA 270:72-d; or

(b) Does not bear the owner's name and contact information as required under RSA 270:72-c; or

(c) Constitutes a hazard to public safety because of the manner in which it is constructed or maintained.

II. The owner of record of anchored seasonal platform, if known, shall be notified, by the director or his agents, of the removal, by certified mail with return receipt requested, within 10 days of removal.

III. Any anchored seasonal platform which is removed pursuant to paragraph I shall be stored in a safe place and the owner shall be notified. Before he or she may reclaim a platform which has been removed pursuant to paragraph I, the owner shall reimburse the person who removes the platform for any costs incurred in transporting and storing the platform.

270:72-f Liability. Nothing in this subdivision shall relieve the owner or installer of an anchored seasonal platform from liability relating to water pollution, accidents, or other liabilities associated with ownership of an anchored seasonal platform.

270:72-g Rulemaking.

I. The director of the division shall adopt rules under RSA 541-A relative to:

(a) The use, design, weight or size, construction, lighting, placement including safe spacing, and required maintenance of individual anchored seasonal platforms.

(b) The enforcement of this subdivision.

270:72-h Penalty. Any person violating the provisions of this subdivision shall be guilty of a violation for the first offense and guilty of a misdemeanor for any additional offenses.

270:72-i Exemptions. This subdivision and any rules implemented under RSA 270:72-g shall not apply to any local, state, or federal government agency, such an agency's sub-contractors, or to

any conservation groups engaged in the non-recreational execution of their duties including, but not limited to, work related to law enforcement, bridge and road work, pollution control, the protection of fish and wildlife, or environmental studies.

Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 99

BILL TITLE: relative to seasonal platforms on public waters of the state.

DATE: January 27, 2021

LOB ROOM: Hybrid **Time Public Hearing Called to Order:** 10:00 a.m.

Time Adjourned: 10:40 a.m.

Committee Members: **Reps. Renzullo, Harb, Harvey-Bolia, Gould, Horgan, Creighton, Dodge, Healey, Mayville, Post, Suzanne Smith, Spang, Grassie, Gottling, Cohen, Connors, Vail, E. Kelley, Moran and Hall**

Bill Sponsors:

Rep. J. MacDonald	Rep. Marsh	Rep. Crawford
Sen. Bradley	Rep. Deshaies	

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. MacDonald has introduced the bill. He presented changes. He is in favor of the Bill to maintain out pristine lakes. He will email his written testimony.

Chair Renzullo compared HB 99 to HB 1609 (last year's bill). He stated that minor additions have been inserted into HB 99 regarding platforms that were not in HB 1609 and asked Rep MacDonald to address discrepancies.

Members discussed definitions and points of clarification on bill.

Rep. Deshaies speaks in support of the legislation. He is a co-sponsor.

Rep. Post ask if there is a financial component. MacDonald stated that he doesn't think there is a fiscal impact on the state.

Captain Tim Dunleavy Marine Patrol to express his support of HB 99. He stated that the proliferation of iceberg, trampolines, etc can present water hazards. Marine patrol will be able to better address these hazards with the passage of this bill. People would be required to put their name and address on platforms.

Rep. Post asked if there is a permitting process. Captain D. stated there is no such process.

Members asked questions of Capt.

Matt Urban NH DOT Chief of Operations stated his support of this legislation.

Rep. Gunski read the list of supporting members.

Rep. Rung excused herself and stated she was stripped of her assignment.

Respectfully submitted,

Rep. Juliet Harvey-Bolia
Clerk

HB 99 10:08

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Rep. Grunski read the list of supporting members.

Rep. Rung excused herself and stated she was stripped of her assignment.

Testimony

Fiscal Note

LBA
21-0137
11/13/20

HB 93-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to human trafficking and child exploitation prevention.

FISCAL IMPACT: **[X] State** **[X] County** **[ ] Local** **[ ] None**

	Estimated Increase / (Decrease)			
STATE:	**FY 2021**	**FY 2022**	**FY 2023**	**FY 2024**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[X] General [ ] Education [ ] Highway [X] Other - Human Trafficking and Child Expoitation Grant Fund			

COUNTY:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill prohibits the manufacture, sale, or lease of an internet-enabled device unless the device includes a filter that blocks obscene material and establishes a fee for deactivating the filter. The bill also establishes a live adult entertainment admission fee. Both fees would be deposited in a human trafficking and child exploitation prevention grant fund, to be administered by the attorney general. The bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Violation Level Offense	$53	$53
Class B Misdemeanor	$55	$55
Class A Misdemeanor	$78	$78
Routine Civil Case	$526	$526
Complex Civil Case	$794	$794
Simple Criminal Case	$309	$309

Routine Criminal Felony Case	$494	$494
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Department of Corrections		
FY 2020 Average Cost of Incarcerating an Individual	$47,691	$47,691
FY 2020 Annual Marginal Cost of a General Population Inmate	$6,407	$6,407
FY 2020 Average Cost of Supervising an Individual on Parole/Probation	$584	$584
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	$105 to $120	$105 to $120

This legislation would require providers of "internet-enabled devices" to automatically include a filter that blocks obscene material and then charge consumers a fee to deactivate the filter. It further charges an additional fee to access establishments that provide "live adult entertainment." Those fees are then deposited into a new special fund called the "New Hampshire Human Trafficking and Child Exploitation Prevention Grant Fund." It would require the Department of Justice to produce a warning "regarding the potential danger of deactivating the filter," grant the Department the authority to initiate civil suits for violations of the obscene content filter provisions as unfair and deceptive practices under the Consumer Protection Act, charge the Department with the administration of the new fund, and require the Department to submit annual reports regarding fees collected and funds expended.

The Department of Justice states this bill creates new offenses that would be handled by the Consumer Protection Bureau. It would likely increase the number of complaints filed with the Bureau, but it is not known how many additional complaints may be filed. This would likely increase the workload of the Consumer Protection Bureau. The bill also makes the Department responsible for administration of the new fund including monitoring the fund and reviewing grant applications and distributing from the fund. This would increase the work of the Department's administrative and Grants Management Unit staff. The amount of revenue the law would generate and the increase in work are unknown. Therefore, the fiscal impact on the Department is indeterminate.

The Judicial Council indicates the indigent defense delivery system is rarely called on to provide representation to someone who violates laws governing business and industry. The Council assumes a bill that regulates commercial transactions would have no effect on the Judicial Council's expenditures for the defense of the indigent accused. If a retailer, as defined in the bill, were to be charged with violating this proposed legislation, the violation would take place in the context of his or her occupation, and it would be unlikely that he or she would meet the eligibility standards for the appointment of counsel established by RSA 604:A-2-c. It is likely that the business would defend or indemnify the employee or agent.

The Department of Revenue Administration is unable to calculate the fiscal impact of this bill. The fiscal impact is contingent upon four other states enacting substantially similar legislation and the Department does not know when or if that contingency will occur. Should the contingency be met, the Department has no basis to estimate the number of deactivation fees or adult entertainment admission fees that would be paid. If the bill becomes law, the Department believes it would incur additional general fund expenditures to incorporate administration of the new fees into the Revenue Information Management System (RIMS) and for staff costs to administer the fees.

AGENCIES CONTACTED:

Departments of Justice, Revenue Administration and Corrections, Judicial Branch, Judicial Council and New Hampshire Association of Counties

Bill as Introduced

HB 93-FN - AS INTRODUCED

2021 SESSION

21-0137
05/04

HOUSE BILL ***93-FN***

AN ACT relative to human trafficking and child exploitation prevention.

SPONSORS: Rep. Plett, Hills. 6

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits the manufacture, sale, or lease of an internet-enabled device unless the device includes a filter that blocks obscene material and establishes a fee for deactivating the filter. The bill also establishes a live adult entertainment admission fee. Both fees would be deposited in a human trafficking and child exploitation prevention grant fund, to be administered by the attorney general.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

21-0137
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to human trafficking and child exploitation prevention.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Legislative Findings and Intent. The general court finds that:

I. The United States Supreme Court in *Ashcroft v. American Civil Liberties Union, 542 U.S. 656 (2004)* found that the legislative branch "may undoubtedly act to encourage the use of filters. It could also take steps to promote their development by industry, and their use by parents," which was the Supreme Court's way of signaling to the legislative branch to pass filter legislation that requires consumers to opt-in to having access to obscene materials that are harmful to minors on Internet-enabled devices, since filters are the least restrictive means.

II. The United States Supreme Court found in *Ginsberg v. New York, 390 U.S. 629 (1968)* that a physical display state statute that required physical brick and mortar stores to put physical obscene material behind a physical blinder rack was constitutional under First Amendment heightened scrutiny, which means that a digital blinder rack statute that requires digital retailers to put digital obscene material behind a digital blinder rack is also constitutional on the same legal basis.

III. Because the Supreme Court of the United States in *Paris Adult Theatre I v. Slaton, 413 U.S. 49 (1973)* made it clear that the states have a compelling interest to uphold community standards of decency, a statute requiring a filter deactivation fee regarding websites displaying obscene material and an adult service business admission fee are constitutional for being rationally related to a narrowly tailored compelling state interest.

IV. The Texas Supreme Court in *Combs v. Texas Entertainment Association, et al., 347 S.W.3d 277 (Sup. Ct. Tex. 2011)*, relying on federal Constitutional law, found that a statute that required a $5 admission fee to an adult service business that was to be remitted back to the state to enable the state to uphold community standards of decency was constitutional under First Amendment heightened scrutiny, which means that a one-time $20 filter deactivation fee to enter the digital strip club on Internet-enabled devices is Constitutional on the same legal basis, if remitted to the state to be used in the same manner.

V. Sex trafficking has moved from the street corner to the smartphone, which means that making websites that facilitate human trafficking and prostitution inaccessible by default on Internet-enabled devices will do more to curb the demand for such offenses more so than any other measure since the inception of the Internet.

VI. Live adult entertainment establishments contribute to a culture that tolerates the sexual objectification and exploitation of women, and contribute to the need for community-based

services to respond to victims of all forms of sexual exploitation, including sexual harassment, trafficking, and sexual assault.

VII. Crime statistics show that the presence of live adult entertainment establishments may result in an increase in prohibited secondary sexual activities, such as prostitution, and other crimes in the surrounding community.

VIII. The legislature is generally opposed to online censorship unless the content is injurious to children or promotes human trafficking - only then is the legislature for limited censorship.

IX. This state has a compelling interest in holding certain social media websites to higher standards for having substantially created a digital public square.

X. This state has an interest in helping its citizens enjoy their free exercise rights in certain semi-public forums commonly used for religious and political speech, regardless of which political party or religious organization they ascribe to.

XI. Retailers of Internet-enabled devices market their products as being family-friendly when they are often not, and major social media websites market themselves as being neutral and free and open to all political and religious speech when they are often not, constituting unfair trade practices.

2 New Chapter; Indecent Deceptive Trade Practice. Amend RSA by inserting after chapter 359-R the following new chapter:

CHAPTER 359-S

INDECENT DECEPTIVE TRADE PRACTICE

359-S:1 Short Title. This chapter may be cited as the human trafficking and child exploitation prevention act.

359-S:2 Purpose. The purpose of this chapter is to regulate indecent deceptive trade practices, causing existing laws to catch up to modern technology, and to deter the erosion of contemporary community standards of decency.

359-S:3 Definitions. In this chapter:

I. "Cellular telephone" means a communication device containing a unique electronic serial number that is programmed into its computer chip by its manufacturer and whose operation is dependent on the transmission of that electronic serial number along with a mobile identification number, which is assigned by the cellular telephone carrier, in the form of radio signals through cell sites and mobile switching stations.

II. "Child pornography" has the same meaning as defined under 18 U.S.C. section 2256 and describes an offense under RSA 649-A.

III. "Computer" shall have the same meaning as in 18 U.S.C. section 1030 or RSA 649-A:2, VII.

IV. "Consumer" means an individual, business, or entity that purchases or leases for personal, family, household purposes, or any other reason an Internet-enabled device.

V. "Data communications device" means an electronic device that receives electronic information from one source and transmits or routes it to another, including, but not limited to, any such bridge, router, switch, or gateway.

VI. "Filter" means a digital blocking capability, hardware or software that restricts or blocks Internet access to websites, electronic mail, chat, or other Internet-based communications based on category, site, or content, and the term means a digital blinder rack that can be deactivated by a retailer upon the satisfaction of certain nominal conditions.

VII. "Disseminate" shall have the same meaning as in RSA 650:1, I.

VIII. "Human trafficking" means the offense of trafficking in persons described in RSA 633:7.

IX. "Internet" has the same meaning as in 31 U.S.C. section 5362.

X. "Internet-enabled device" means a cellular telephone, computer, data communications device, or other product manufactured, distributed, or sold in this state that provides Internet access or plays a material role in distributing content on the Internet.

XI. "Internet service provider" means a person engaged in the business of providing a computer and communications facility through which a consumer may obtain access to the Internet. The term does not include a common carrier if it provides only telecommunications service.

XII. "Live adult entertainment establishment" means a business in which, as the major activity, customers congregate primarily for the purpose of viewing or associating with employees who display anatomical areas designed to provide sexual stimulation or sexual gratification: human genitals, the immediate pubic region, or pubic hair; buttocks to the extent of exposing the immediate anal area; female breasts to points below the nipples; male genitals in a state of erection, even if covered with opaque clothing; all of the above anatomical areas when covered only by transparent or diaphanous clothing.

XIII. "Material" shall have the same meaning as in RSA 650:1, II.

XIV. "Minor" means a person under the age of 18.

XV. "Non-government group" means a nonprofit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose ending sexual violence in this state, for programs for the prevention of sexual violence, outreach programs, and technical assistance to and support of youth and rape crisis centers working to prevent sexual violence. The term also includes individuals and or any group that is doing anything to uphold community standards of decency.

XVI. "Obscene" shall have the same meaning as in RSA 650:1, IV, and shall include visual representation. The term includes websites that:

(a) Are known to facilitate human trafficking or prostitution; and

(b) Display or depict images that are harmful to minors or that constitute sadomasochistic abuse, sexually explicit conduct, or, revenge pornography.

XVII. "Personal identification information" means any information that identifies a person, including an individual's photograph, social security number, driver identification number, name, email address, address or telephone number.

XVIII. "Prostitution" shall have the same meaning as in RSA 645:2.

XIX. "Retailer" means any person who regularly engages in the manufacturing, sale, offer for sale or lease of Internet-enabled devices or services in this state that make content accessible on the Internet. The term includes Internet service providers and suppliers and manufacturers of Internet-enabled devices that materially play a role in distributing content on the Internet or that make content accessible that are subject to the jurisdiction of this state.

XX. "Revenge pornography" means the nonconsensual disclosure of private sexual images under RSA 644:9-a.

XXI. "Sexually explicit conduct" shall have the same meaning as in RSA 649-A:2, III.

XXII. "Sexual conduct" shall have the same meaning as in RSA 650:1, VI.

XXIII. "Social media website" means an Internet website or application that enables users to communicate with each other by posting information, comments, messages, or images and that meets all of the following requirements:

(a) Is open to the public;

(b) Has more than 75 million subscribers;

(c) From its inception, has not been specifically affiliated with any one religion or political party; and

(d) Provides a means for the website's users to report obscene materials and has in place procedures for evaluating those reports and removing obscene material.

359-S:4 Continuing Duties of Retailers of Internet-enabled Devices.

I. A retailer that manufactures, sells, offers for sale, leases, or distributes an Internet-enabled device shall ensure that the product is equipped with an active and operating filter prior to sale that blocks by default websites that:

(a) Are known to facilitate human trafficking or prostitution; and

(b) Display child pornography, revenge pornography, or obscene material harmful to minors.

II. A retailer that manufactures, sells, offers for sale, leases, or distributes an Internet-enabled device shall:

(a) Make reasonable and ongoing efforts to ensure that the filter functions properly;

(b) Establish a reporting mechanism, such as a website or call center, to allow a consumer to report unblocked websites displaying content described in paragraph I or to report blocked websites that are not displaying content described in paragraph I;

(c) Report child pornography received through the reporting mechanism to the National Center For Missing and Exploited Children's CyberTipline in accordance with 18 U.S.C. section 2258A;

(d) Not block access to websites that:

(1) Are social media websites that provide a means for the website's users to report obscene materials and have in place procedures for evaluating those reports and removing obscene material;

(2) Serve primarily as a search engine; or

(3) Display complete movies that meet the qualifications for a "G,""PG,""PG-13," or "R" rating by the Classification and Ratings Administration, as those qualifications existed on September 1, 2020.

III. Except as provided by paragraph IV, a retailer of an Internet-enabled device shall not provide to a consumer, methods, source code, or other operating instructions for deactivating a product's filter.

IV. A retailer of an Internet-enabled device shall deactivate the filter after a consumer:

(a) Requests that the capability be disabled;

(b) Presents personal identification information to verify that the consumer is 18 years of age or older;

(c) Acknowledges receiving a warning regarding the potential danger of deactivating the filter; and

(d) Pays a one-time $20 filter deactivation fee to be remitted quarterly to the department of revenue administration to be deposited into the New Hampshire human trafficking and child exploitation prevention grant fund established under RSA 359-S:8, I.

V. The department of revenue administration shall prescribe the administration, payment, collection and enforcement of the fee imposed by paragraph IV. The department of revenue administration may annually adjust the one-time fee to account for inflation.

VI. Nothing in this chapter shall be construed to prevent a retailer of an Internet-enabled device from charging a reasonable separate fee to deactivate the filter, which it may retain for profit.

VII. The attorney general shall prepare and make available to retailers a form that includes all content that shall be in the warning described in subparagraph IV(c).

VIII. Nothing in this chapter shall be construed to require a retailer of an Internet-enabled device to create a database or registry that contains the names or personal identification information of adults who knowingly chose to deactivate a product's filter. A retailer of an Internet-enabled device shall take due care to protect the privacy rights of adult consumers under this section and shall not disclose the names or personal identification information of an adult consumer who decided to deactivate a product's filter.

359-S:5 Quality Control, Civil Action, Unfair and Deceptive Trade Practice, Affirmative Defense.

I. Pursuant to RSA 359-S:4, II(b), if the filter blocks a website that is not displaying content described in RSA 359-S:4, I, and the block is reported to a call center or reporting mechanism, the website shall be unblocked within a reasonable time, but in no event later than 5 business days after the block is first reported. A consumer may seek judicial relief to unblock a website that was wrongfully blocked by the filter. The prevailing party in a civil litigation may seek attorney fees, costs, and other forms of relief.

II. Pursuant to RSA 359-S:4, II(b), if a retailer of an Internet-enabled device is unresponsive to a report of a website displaying content described in RSA 359-S:4, I, that have breached the filter, the attorney general or a consumer may file a civil suit. The attorney general or a consumer may seek damages of up to $500 for each website that was reported but not subsequently blocked. The prevailing party in the civil action may seek attorneys' fees, costs, and other forms of relief.

III. A retailer of an Internet-enabled device that fails to comply with a duty described in paragraphs I and II has engaged in an unfair and deceptive trade practice in violation of RSA 358-A:2 and shall be subject to the penalties for violating that chapter.

IV. It shall be an affirmative defense in a civil action to a charge of violating this section that the dissemination of the content described in RSA 359-S:4, I, was limited to institutions or organizations having scientific, educational, or other similar justifications for displaying the material.

359-S:6 Unlawful Practices; Penalties.

I. A retailer of an Internet-enabled device is guilty of an offense if it knowingly:

(a) Sells an Internet-enabled device without activated blocking capability that at least makes an attempt to block by default websites that display content described in RSA 359-S:4, I;

(b) Violates RSA 359-S:4, III;

(c) Fails to comply with the requirements of RSA 359-S:4, IV, before deactivating a product's filter; and

(d) Discloses to a third party the name or the personal identification information of adult consumers who have elected to deactivate a product's filter in violation of RSA 359-S:4, VIII, without a court order directing otherwise.

II. Any right, remedy, or power set forth in RSA 358-A, including those set forth in RSA 358-A:4, may be used to enforce the provisions of this chapter. Such remedies shall be in addition to any other remedies provided by law or equity.

359-S:7 Exemptions.

I. This chapter shall not apply to:

(a) An occasional sale of an Internet-enabled device by a person that is not regularly engaged in the trade business of selling Internet-enabled devices;

(b) Products produced or sold before the effective date of this chapter; and

(c) Independent third-party routers that are not affiliated with an Internet service provider.

II. This chapter shall not apply to a retailer of an Internet-enabled device that is not subject to the jurisdiction of this state.

359-S:8 New Hampshire Human Trafficking and Child Exploitation Prevention Grant Fund.

I. There is established a special fund to be known as the New Hampshire human trafficking and child exploitation prevention grant fund to be administered by the attorney general. The nonlapsing fund shall be kept separate and distinct from all other funds and shall be continually appropriated to the department of justice for the purposes of this section.

II. The purpose of the fund shall be:

(a) To promote the development throughout the state of locally-based and supported nonprofit programs for the survivors of sexual-related offenses and to support the quality of services provided;

(b) To empower any government and, especially, non-government groups working to uphold community standards of decency, to protect children, to strengthen families, or to develop, expand, or to prevent or offset the costs of sex-related offenses; and

(c) Not to promote a culture of perpetual victimhood but to maximize human flourishing and to protect the public's safety, health, and welfare.

III. The purposes of the fund stated in paragraph II shall be interpreted broadly to meet the evolving needs of the state.

IV. The fund shall consist of:

(a) Deactivation fees collected by the department of revenue administration from retailers of Internet-enabled devices under RSA 359-S:4, IV(d);

(b) Admission fees collected by the department of revenue administration from live adult entertainment establishments under RSA 359-S:9, I; and

(c) Any other appropriations, gifts, grants, donations, and bequests.

V. Money deposited into the fund shall be used only by:

(a) The attorney general for grants to public and private entities and individuals that are working to uphold community standards of decency, to protect children, to strengthen families, or to develop, expand, or strengthen programs for victims of human trafficking or child exploitation, including providing grants for:

(1) The needs of any human trafficking task force or coalition based in New Hampshire;

(2) The needs of victim compensation;

(3) Services to help women with substance abuse problems stay clean;

(4) Counselors and victim advocates who are trained to assist victims of domestic violence and sexual abuse;

(5) Shelters for women, particularly those who have been exposed to prostitution or sex trafficking;

(6) Research-based organizations;

(7) Faith-based organizations working to uphold community standards of decency and assisting victims of human trafficking or other sex offenses;

(8) Child advocacy centers;

(9) Organizations that provide legal advocacy to abused, neglected, and at-risk children;

(10) Physical and mental health services;

(11) Temporary and permanent housing placement;

(12) Employment, placement, education, training;

(13) Independent school districts;

(14) Family counseling and therapy;

(15) Law enforcement;

(16) Musical, writing, design, cinematic, or pictorial creative art projects that promote decency;

(17) Regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims;

(18) Grants to support technology in rape crisis centers;

(19) Sexual violence awareness and prevention campaigns;

(20) Scholarships for students demonstrating outstanding character or leadership skills; and

(21) Sexual assault examinations established under RSA 21-M:8-c or RSA 169-C:12-c.

(b) Any other state agency or organization for the purpose of conducting human trafficking enforcement programs or to uphold community standards of decency.

VI. Notwithstanding any law to the contrary, interest accruing on investments and deposits of the fund shall be credited to the fund shall not revert to the general fund, and shall be carried forward into the subsequent fiscal year.

VII. Any balance in the fund remaining unexpended at the end of a fiscal year shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

VIII. The attorney general shall evaluate activities conducted under this section each year and, on or before February 15, submit an annual report containing the evaluation to the senate president and the speaker of the house of representatives. The report shall include:

(a) The amount of filter deactivation fees received under RSA 359-S:4, IV(d);

(b) The amount of admission fees received under RSA 359-S:9, I;

(c) The manner in which the funds in the account maintained under paragraph V, were distributed; and

(d) The manner in which each entity receiving a grant under paragraph V used the grant money.

IX. The attorney general or the attorney general's designee may adopt rules under RSA 541-A to:

(a) Determine eligibility requirements for any grant awarded under this section;

(b) Require a grant recipient to offer minimum services for a period of time before receiving a grant and to continue to offer minimum services during the grant period; and

(c) Require a grant recipient to submit financial and programmatic reports.

X. The attorney general shall not spend more than 10 percent of the available funds on the administration of the fund.

359-S:9 Live Adult Entertainment Admission Fee.

I. A $5 admission fee is imposed for each entry by each customer admitted to a live adult entertainment establishment to be remitted quarterly to the department of revenue administration and deposited into the New Hampshire human trafficking and child exploitation prevention grant fund established under RSA 359-S:8, I. The department of revenue administration shall prescribe the method of administration, payment, collection, and enforcement of the fee imposed by this section.

II. Each live adult entertainment establishment shall record daily in the manner required by the department of revenue administration the number of customers admitted to the business. The business shall maintain the records for the period required by the department of revenue administration and make the records available only for inspection and audit on request by the department of revenue administration. The records shall not contain the names or personal information of any of the customers.

III. This section shall not require a live adult entertainment establishment to impose a tax on a customer of the business. A business has the discretion to determine the manner in which the business derives the money required to pay the fee imposed under this section.

3 New Subparagraph; Dedicated Funds; New Hampshire Human Trafficking and Child Exploitation Prevention Grant Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (364) the following new subparagraph:

(365) Moneys deposited in the New Hampshire human trafficking and child exploitation prevention grant fund established in RSA 359-S:8.

4 Contingency. This act shall take effect on the date that the attorney general certifies to the secretary of state and the director of the office of legislative services that 4 other states have enacted substantially similar legislation.

5 Effective Date. This act shall take effect as provided in section 4 of this act.