

HB 293-FN - AS INTRODUCED

2025 SESSION

25-0598

11/09

HOUSE BILL **293-FN**

AN ACT preventing minors from accessing obscenity on certain electronic devices with internet access.

SPONSORS: Rep. Drye, Sull. 7; Rep. Mazur, Hills. 44; Rep. Peternel, Carr. 6; Rep. Thibault, Merr. 25; Rep. Noble, Hills. 2; Rep. Moffett, Merr. 4; Rep. Harvey-Bolia, Belk. 3; Rep. J. Aron, Sull. 4; Rep. M. Aron, Sull. 8; Rep. Bjelobrk, Graf. 5

COMMITTEE: Judiciary

ANALYSIS

This bill requires manufacturers of electronic tablets and smartphones to install filters on those devices that prevent minors from accessing obscene material and creates civil liability against a manufacturer that does not install filters in devices. The bill also creates civil and criminal liability against a manufacturer or person who disables a filter with the intent to allow a minor to access obscene material.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT preventing minors from accessing obscenity on certain electronic devices with internet access.

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

1 1 New Subparagraph; Electronic Devices; Legal Compliance. Amend RSA 507-H:4, I by
2 inserting after subparagraph (e) the following new subparagraph:

3 (f) Assume that the manufacturer of a device installed a filter on the device. For the
4 purposes of this subparagraph, the terms "device", "filter", and "manufacturer", are as defined in
5 RSA 507-I:1.

6 2 New Chapter; Prohibiting Access by Minors to Obscene Material on Electronic Devices.
7 Amend RSA by inserting after chapter 507-H the following new chapter:

8 CHAPTER 507-I

9 PROHIBITING ACCESS BY MINORS TO OBSCENE MATERIAL ON ELECTRONIC DEVICES

10 507-I:1 Definitions.

11 As used in this chapter:

12 I. "Activate" means the process of powering on a device and associating it with a user
13 account.

14 II. "Device" means a tablet or a smartphone manufactured on or after the effective date of
15 this chapter.

16 III. "Filter" means software used on a device that is capable of preventing the device from
17 accessing or displaying obscene material, as defined in paragraph VIII, through Internet browsers or
18 search engines owned or controlled by the manufacturer, in accordance with prevailing industry
19 standards including blocking known websites linked to obscene content via mobile data networks,
20 wired Internet networks, and wireless Internet networks.

21 IV. "Internet" means the global information system that is logically linked together by a
22 globally unique address space based on the internet protocol (IP), or its subsequent extensions, and
23 that is able to support communications using the transmission control protocol/internet
24 protocol(TCP/IP) suite, or its subsequent extensions, or other IP-compatible protocols, and that
25 provides, uses, or makes accessible, either publicly or privately, high-level services layered on
26 communications and related infrastructure.

27 V. "Manufacturer" means a person under paragraph XI that:

28 (a) Is engaged in the business of manufacturing a device;

29 (b) Holds the patents for the device it manufactures; or

30 (c) Holds the patents for the operating system on a device; and

1 (d) Has a commercial designated registered agent as required by RSA 293-A:5.01.

2 VI. "Material" means any printed matter, visual representation, live performance, or sound
3 recording including, but not limited to, books, magazines, motion picture films, pamphlets,
4 phonographic records, pictures, photographs, figures, statues, plays, dances, or other representation
5 or embodiment of the obscene. Undeveloped photographs, molds, printing plates, and the like, shall
6 be deemed obscene material notwithstanding that processing or other acts may be required to make
7 the obscenity patent or to disseminate it.

8 VII. "Minor" means an individual under the age of 18, who is not emancipated, married, or a
9 member of the armed forces of the United States.

10 VIII. "Obscene material" means material as defined in paragraph VI of this section that
11 considered as a whole:

12 (a) Appeals predominantly to the prurient interest in sex, that is, an interest in
13 lewdness or lascivious thoughts, when applying contemporary standards;

14 (b) Depicts or describes sexual conduct in a manner so explicit as to be patently
15 offensive; and

16 (c) Lacks serious literary, artistic, political, or scientific value.

17 IX. "Operating system" means software that manages all of the other application programs
18 on a device.

19 X. "Password" means a string of characters or other secure method used to enable,
20 deactivate, modify, or uninstall a filter on a device.

21 XI. "Person" means any individual, partnership, company, corporation, firm, governmental
22 unit or agency, or any other legal entity.

23 XII. "Retailer" means a person that is not a manufacturer that sells a device directly to
24 consumers and includes an employee of a retailer acting in the course and scope of the employee's
25 employment.

26 XIII. "Smartphone" means an electronic device that combines a cell phone with a hand-held
27 computer, typically offering Internet access through a browser or search engine, data storage, text,
28 and email capabilities.

29 XIV. "Tablet" means a mobile device equipped with a mobile operating system, touchscreen
30 display, rechargeable battery, and the ability to support access to a cellular network.

31 507-I:2 Filter Required.

32 All devices as defined in RSA 507-I:1, II, when activated in this state, shall:

33 I. Contain a filter;

34 II. Ask the user to provide the user's age during activation and account set-up;

35 III. Automatically enable the filter when the user is a minor based on the age provided by
36 the user as described in paragraph II;

37 IV. Allow a password to be established for the filter;

1 V. Notify the user of the device when the filter blocks the device from accessing a website;
2 and

3 VI. Allow a non-minor user who has the password the option to deactivate and re-activate
4 the filter.

5 507-I:3 Private Right of Action. A parent or legal guardian may bring a civil action against:

6 I. A person who intentionally disables a filter on a device that a minor possesses or may
7 reasonably and foreseeably possess with the intent to allow a minor to access obscene material, and
8 a minor does in fact access obscene material.

9 II. A manufacturer who violates RSA 507-I:2 and by virtue of such violation intentionally or
10 unintentionally enables the minor to access obscene material, and the minor does in fact access
11 obscene material.

12 III. A prevailing plaintiff shall be entitled to an award of:

13 (a) Actual damages; or

14 (b) Where actual damages are difficult to ascertain due to the nature of the injury,
15 liquidated damages in the amount of either:

16 (1) \$50,000 for each violation under paragraph II; or

17 (2) At least \$5,000 per violation of paragraph I, and not to exceed a total of \$100,000
18 in aggregate, as determined by the court;

19 (c) Reasonable attorney's fees and court costs; and

20 (d) Punitive damages.

21 IV. No cause of action shall exist against a retailer as defined in RSA 507-I:1, XII.

22 507-I:4 Liability; Consumer Protection Act.

23 A manufacturer of a device that does not comply with RSA 507-I:2 shall be subject to an action
24 by the attorney general under RSA 358-A:2. That the manufacturer reasonably believed, based on
25 its demonstrable efforts to comply with the law, that the device did comply with the provisions of
26 RSA 507-I:2 shall be an absolute defense to any violation brought according to this section.

27 507-I:5 Criminal Liability.

28 A person who disables a filter may be subject to criminal prosecution under RSA 644:9-b.

29 3 New Section; Disabling an Electronic Device Filter for the Purpose of Allowing Access to
30 Obscene Material by a Minor. Amend RSA 644 by inserting after section 9-a the following new
31 section:

32 644:9-b Disabling an Electronic Device Filter for the Purpose of Allowing Access to Obscene
33 Material by a Minor.

34 I. The terms "device", "filter", "manufacturer", and "obscene material" mean as defined in
35 RSA 507-I:1.

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1 II. A person or manufacturer that intentionally disables a filter on a device that a minor
2 possesses or may reasonably and foreseeably possess with the intent to allow a minor to access
3 obscene material, and a minor does in fact access obscene material, shall be guilty of a class B felony.

4 4 Effective Date. This act shall take effect January 1, 2026.

**HB 293-FN- FISCAL NOTE
AS INTRODUCED**

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FISCAL IMPACT:

| Estimated State Impact | | | | |
|-------------------------------|----------------|----------------|----------------|----------------|
| | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| <i>Revenue Fund</i> | None | | | |
| Expenditures* | Indeterminable | | | |
| <i>Funding Source</i> | General Fund | | | |
| Appropriations* | \$0 | \$0 | \$0 | \$0 |
| <i>Funding Source</i> | None | | | |

*Expenditure = Cost of bill *Appropriation = Authorized funding to cover cost of bill

| Estimated Political Subdivision Impact | | | | |
|---|----------------|----------------|----------------|----------------|
| | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
| County Revenue | \$0 | \$0 | \$0 | \$0 |
| County Expenditures | Indeterminable | | | |
| Local Revenue | \$0 | \$0 | \$0 | \$0 |
| Local Expenditures | Indeterminable | | | |

METHODOLOGY:

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

The bill also provides for civil remedies. There is no way to predict how many such actions would occur, but the Judicial Branch has provided average cost information for civil cases in the Superior Court:

NH Judicial Branch Average Civil Case Estimates

| Judicial Branch Average Cost | FY 2025 | FY 2026 |
|--------------------------------------|----------------|----------------|
| Superior Court Complex Civil Case | \$1,430 | \$1,473 |
| Superior Court Routine Civil Case | \$535 | \$552 |

Common Civil Case Fees

| Superior Court Fees | As of 2/12/2020 |
|----------------------------|------------------------|
| Original Entry Fee | \$280 |
| Third-Party Claim | \$280 |
| Motion to Reopen | \$160 |

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association